

**INDEPENDENT COMMISSION AGAINST  
CORRUPTION**

**REPORT ON INVESTIGATION INTO  
CORRUPTION ALLEGATIONS AFFECTING  
WOLLONGONG CITY COUNCIL**

**PART 1**

**March 2008**



INDEPENDENT COMMISSION AGAINST CORRUPTION

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The Hon Peter Primrose MLC  
President  
Legislative Council  
Parliament House  
SYDNEY NSW 2000

The Hon Richard Torbay MP  
Speaker  
Legislative Assembly  
Parliament House  
SYDNEY NSW 2000

Mr President  
Mr Speaker

In accordance with section 74 of the *Independent Commission Against Corruption Act 1988* (the ICAC Act) I am pleased to present Part 1 of the Commission's report on its investigation into corruption allegations affecting Wollongong City Council. Part 2 of the report will be provided later in the year.

I presided at the public inquiry held in aid of this investigation.

Part 1 of the report contains a recommendation under section 74C(1) of the ICAC Act that consideration be given to the making of a proclamation under the *Local Government Act 1993* that all civic offices in relation to Wollongong City Council be declared vacant.

I draw your attention to the recommendation that the report be made public forthwith pursuant to section 78(2) of the ICAC Act.

Yours faithfully

A handwritten signature in black ink, appearing to be 'Jerrold Cripps', written in a cursive style.

The Hon Jerrold Cripps QC

Commissioner

## Introduction

This is the first part of a two-part report by the Independent Commission Against Corruption (the Commission) in relation to its investigation of allegations that persons may have engaged in corrupt conduct in connection with:

- the assessment by Beth Morgan, a former Wollongong City Council official, and other current or former council staff and councillors of development applications submitted by Frank Vellar, Glen Tabak and Michael Kollaras;
- the provision by Ms Morgan to Mr Vellar of information from the Council which should not have been given;
- other dealings between Mr Vellar and current or former Council staff and councillors;
- the activities of Ray Younan, Gerald Carroll and persons dealing with them involving the impersonation of Commission officers, fraud, solicitation and payment of corrupt inducements and the provision of false or misleading information to the Commission; and
- other associated matters.

As part of this investigation the Commission conducted a public inquiry. During the course of that public inquiry evidence was given by a number of former and current Wollongong City Council officers, developers and others. These included Councillors Val Zanotto, Frank Gigliotti, Zeki Esen and Kiril Janovski.

Section 74(3) of the *Independent Commission Against Corruption Act 1988* (the ICAC Act) provides that the Commission shall prepare a report in relation to a matter as to which the Commission has conducted a public inquiry. The exception to this requirement is not relevant in the present circumstances.

Division 1 of Part 8 of the ICAC Act sets out what may and what must be included in any report made under section 74 of the ICAC Act. These matters will, with one exception, be dealt with in the second part of the report which will be made later in the year.

The exception relates to section 74C(1) of the ICAC Act which provides:

The Commission is authorised to include in a report under section 74 a recommendation that consideration be given to the making of a proclamation under the *Local Government Act 1993* that all civic offices in relation to a local government authority be declared vacant if the Commission is of the opinion that systemic corruption exists within the local government authority.

Section 74C(4) of the ICAC Act provides that a recommendation is not to be made unless the Commission is of the opinion that prompt action is required in the public interest.

Section 255(2) of the *Local Government Act 1993* provides that the Governor may, by proclamation, declare all civic offices in relation to a council to be vacant if the Commission, in a report referred to in section 74C of the ICAC Act, recommends that consideration be given to the making of such a declaration because of systemic corruption within the council.

The *Local Government Act 1993* defines “civic office” as the office of councillor or mayor or, in the case of a county council, the office of chairperson or member.

## **Section 74C(1) statement**

The public inquiry commenced on Monday 18 February 2008. Since the commencement of the public inquiry evidence has been taken from a number of people and much documentary evidence has been tendered.

Prior to the commencement of the public inquiry Councillors Gigliotti, Esen and Janovski took leave of absence from Wollongong City Council. Councillor Zanotto took leave of

absence on Friday 29 February 2008. This means that these four councillors have ceased to participate in any council business although they continue to be entitled to all the rights and privileges of their office. That includes the right to receive their emoluments of office and to make use of Wollongong City Council facilities. Their decision to take leave of absence was voluntary and it is open to them to return to their duties as councillors.

In determining whether to make a recommendation under section 74C(1) of the ICAC Act the Commission must be of the opinion that:

- systemic corruption exists within the relevant council; and
- prompt action is required in the public interest.

In deciding whether or not to make a recommendation it is not necessary that the Commission consider the conduct of all those holding civic office. In the present public inquiry it is the conduct of Councillors Zanotto, Gigliotti, Esen and Janovski that gives rise to any consideration of a recommendation under section 74C(1) of the ICAC Act.

Having considered the evidence of Councillors Zanotto, Gigliotti, Esen and Janovski, and the other evidence available to the Commission concerning their conduct, the Commission is of the opinion that their conduct makes it clear that systemic corruption exists within Wollongong City Council.

Although all four councillors have taken leave of absence they would be able to return to their duties as councillors at any time. Given this fact and the evidence before the Commission the Commission considers that prompt action is required in the public interest.

In these circumstances the Commission recommends that consideration be given to the making of a proclamation under the *Local Government Act 1993* that all civic offices in relation to Wollongong City Council be declared vacant.

## **Recommendation that this report be made public**

Pursuant to section 78(2) of the ICAC Act, the Commission recommends that this report be made public immediately. This recommendation allows either Presiding Officer of the Houses of Parliament to make the report public, whether or not Parliament is in session.