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Law Reform Committee



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To vplrc@parliament.vic.gov.au

cc

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Subject VPLRC Submission: Those who pay for the Piper's Party call the tunes.

Executive Officer
Victorian Parliament Law Reform Committee
Parliament House
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Dear Sir/Madam,

Thank you for the extension of time to prepare our attached submission regarding your Committee's review of the *Members of Parliament (Register of Interests) Act 1978*.

Please do not hesitate to contact me if you require any additional information.

Your sincerely,

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ATTACHMENT

Kew Cottages Coalition Submission to VPLRC

Those who pay for the Piper's Party call the tune.

1. Background

Based on our first hand experience with the contentious Kew Cottages Development over the past seven years we believe the current register of Members of Parliament interests is totally ineffective because:

1. It fails to adequately deal with related party interests, including large financial donations to the political party to which the MP in question belongs;
2. It fails to make the information it contains publicly available on the Internet in a timely and effective manner.

The major political parties each receive large political donations from groups and individuals who are often in a position to benefit financially from action or inaction by key members of the major political parties, particularly those MP's who are members of the Government party of the day.

In the case of the current Kew Cottages 'privatisation' Development , for example, the recent 'All Party' Upper House Select Committee on Public Land Development found that two developers, Walker Corporation and Mirvac , each made large political donations to the Victorian ALP at critical stages of the tender process. (Refer Final Report)

Moreover, as the AEC Reports on Political Donations have subsequently shown, on 5-June 2007, shortly after the Select Committee began its investigation into Public Land Development in May 2007, Walker Corporation, which was by then engaged in a public private partnership with the Victorian Labor Government, at Kew Cottages, began making large political donations to the Australian Liberal Party.

To our knowledge each of the MP's questioned about their involvement in the Kew Cottages development has denied having any knowledge of the Walker and Mirvac donations at the

time the latter donations were made to their respective political parties.

2. The Problem.

A public perception of inappropriate links between private developers political donations and the actions of key politicians.

A public perception that a conflict of interest exists for all Government MP's who speak in the Parliament on the privatisation of Public Land where the Government is not only the owner, but also the developer, the regulator, and the vendor, of the Public Land.

A public perception that an MP's claimed ignorance of inappropriate party political donations is a wilful ignorance.

3. The Solution.

- 1. Full disclosure by individual MP's of all political donations, including donations received by their related political parties.**
- 2. Real time, rather than delayed disclosure of all interests including donations**
- 3. Real time scrutiny and analysis of all interests and donations by the AEC, and/or an independent ethical advisor.**

4. Prevention is Cheaper than Cure.

Evidence to the recent Inquiry by the Victorian Electoral Matters Committee into political donations and disclosure has shown the benefits that have flowed from improved disclosure regimes on political donations now established in other jurisdictions eg: Canada and the United States.

Similarly evidence to the Committee showed the high cost involved when such changes were delayed too long in those jurisdictions ie: until a crisis developed in public confidence.

We would respectfully request therefore that the VPLRC have regard to the Electoral matters Committee evidence , particularly with regard to the simplicity of the real time, publicly accessible, Internet based, disclosure systems that we understand now operate in the United States - See Dr. Ken Coghill's Submission re the the New York City Campaign Finance Board model.

5. See No Evil, Hear No Evil

The evidence, findings and recommendations of the Victorian Parliament's Public Land Development Inquiry illustrate a range of disclosure problems of interest to the VPLRC regarding:

1. Unusual Government and Ministerial conduct with respect to the privatisation of Kew Cottages;
2. Conduct potentially related to party political donations by developers;
3. Conduct potentially related to the lobbying activities of former Senator Richardson.
4. Omissions in the Government Online Contract Publishing System (CPS) including:

- missing contract documents
- missing pages in a Major Project contract with a large party political donor to the Victorian ALP

However, in each case when Minister's were invited to make a full and frank disclosure regarding these matters, they appeared either unable or unwilling to do so.

For example on 22-May'08 the Committee heard evidence from Ministers that:

- "... My understanding is that those donations are made to those head offices; they do not come via members of Parliament..."
- "... The probity checks have been done.. "
- "... I never ask, and I do not know, whether the people who come to see me have contributed to the Labor Party or to any other party.."

But, as the Government declined to cooperate with the Inquiry, and failed to release the Kew Cottages probity audit that had been requested by the Inquiry, the public perception remained that the only defense the Ministers' had to fall back on was simply one of complete and total 'ignorance' - ie: their own unsubstantiated claim to a personal ignorance of, and therefore lack of response to, the party political donations concerned.

But total "ignorance", in the face of Walker Corporation CEO, John Hughes, evidence to the Select Committee about donations that: "What it gets you, at best, is access to be able to put your case...", did not sound to us like a very convincing defense.

In December 2008 the Upper House pursued the matter further and passed a historic motion requesting that the Ombudsman investigate the probity of both the Kew Cottages Development tender process, and the St Kilda Triangle development.

The Ombudsman's investigation into the latter matters are still in progress at the time of writing (June 2009)

6. Conclusion.

It appears clear that the current lack of transparency, lack of scrutiny, and lack of analysis with respect to full disclosure of Victorian MP's personal interests in large party political donations is not in the public interest.

It is particularly ironic that this current '21st Century' lack of open government in Australia is still occurring in an age when a citizen of Victoria has better, faster, and more detailed access to information on political donations made by US citizens in San Francisco and New York than they do to information on large political donations made by Sydney based developers to the Victorian ALP.

In our submission both MP's, Parliament, and the public would benefit if this problem was rectified as soon as possible. MP's would benefit from 'justice not only being done, but being seen to be done'.

The public interest would be better served by Internet access to current information on how the democratic process is currently operating in Victoria.

Parliament would benefit not only from increased public confidence in the democratic system itself, but also in simple practical ways by having access to accurate and up to date information on party political donations in order to improve the effectiveness and efficiency of inquiries such as your own.

7. Recommendation.

We, therefore, recommend the *Members of Parliament (Register of Interests) Act 1978* be amended to provide for:

- 1. Full disclosure by individual MP's of all political donations, including donations received by their related political parties.**
- 2. Real time, rather than delayed disclosure of all interests including donations received by their related political parties.**
- 3. Real time scrutiny and analysis of all interests and donations by the AEC, and/or an independent ethical advisor.**