

## Operation Sandon — Planning

**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 (Casey Council) in Melbourne's south-east. It also examined the effectiveness of Victoria's controls for safeguarding the integrity of the state's planning processes.**

### Background

IBAC's investigation focused on four planning decisions involving, Mr John Woodman, and his associates. Those decisions concerned land in four greenfield Precinct Structure Plans (PSPs):

1. an amendment to the Cranbourne West PSP, known as Amendment C219, which sought to change the permissible land use of part of Cranbourne West from industrial to residential
2. the area known as Brompton Lodge and its inclusion within Melbourne's urban growth boundary (UGB) to allow more intensive development of that land
3. amendments to planning permits for the Lochaven Estate and the Alarah and Elysian estates that was about two developers' responsibilities to construct the H3 intersection
4. amendments to the Pavilion Estate planning permit that reduced road widths and removed open-space requirements.

Amendment C219 and the inclusion of Brompton Lodge within Melbourne's urban growth boundary involved decisions on the permissible use of land and on zoning by decision-makers at both the local and state levels of government.

The other two matters were statutory planning decisions, involving planning permit amendments. They concerned decisions at the local government level only.

### Scope of the investigation

IBAC's investigation was concerned with the decision-making process and not with the merits of the decisions.

Operation Sandon focused on the risk of corruption and other forms of inappropriate influence within these processes, including how planning processes can incentivise corruption and how improper influence can be exerted on decision-makers.

Operation Sandon also highlighted corruption vulnerabilities in statutory planning. Statutory planning is the assessment of planning permit applications for new developments proposals and changes to land use activities. IBAC found that there is a particular risk of corruption where conflicted councillors are the key decision-makers on statutory planning matters.

This summary focuses on the key findings related to planning in Operation Sandon.

## Key Findings

### Cranbourne West PSP or the Amendment C219 matter

IBAC observed that the advice provided by council and state departmental planning officers that the proposal to change the permissible land use of an area from commercial to residential in Amendment C219 lacked strategic justification, was repeatedly ignored.

The proposal was progressed by Casey Council, often without reasons recorded, until it was rejected at the final stage by the Planning Minister.



## Brompton Lodge



In 2007, the owners of 108 acres of rural land in Cranbourne South, now known as the Brompton Lodge Estate, sought to have their land included within the UGB and subsequently rezoned for residential development.

Through various arrangements, Mr John Woodman, his son, and two political lobbyists were engaged to progress these changes with Casey Council and state government Ministers. The strategy was successful. The land was included in the UGB in 2012 and rezoned in 2016.

In 2018, the land was sold to a company associated with a company co-owned by Mr John Woodman's son. That company has since commenced development of approximately 1,500 dwellings.

The investigation did not find Mr John Woodman's son engaged in improper conduct.

## H3 intersection



In 2018, Casey Council considered the construction of an interim T-intersection, known as the H3 intersection, to allow traffic between two housing estates. One of Mr John Woodman's associates was a director and shareholder of one of the two companies holding permits to build along the relevant road. IBAC does not suggest that Mr John Woodman's associates acted improperly.

The planning permits included conditions under which the companies would fund the intersection's construction. Mr John Woodman and his associates worked to ensure the other company would be responsible for most of the construction costs. They did this by supporting a residents action group seeking to promote the intersection's speedy construction, paying Crs Aziz and Ablett in exchange for their support, and by Mr John Woodman continuing to cultivate his relationship with Cr A to implicitly influence Cr A's decisions on council.

These efforts were successful, and the other company was responsible for most of the construction costs.

## Pavilion Estate



In 2017, shortly after approving a development permit for the Pavilion Estate, the landowner asked the council to amend the permit and reduce open-space requirements and road-reserve widths and charge the council for the cost of constructing a road.

An associate of Mr John Woodman was a director and shareholder of the company managing the estate's development. The changes requested would decrease its costs and provide it with more land to develop and sell on behalf of the landowners.

Mr John Woodman and his associates worked with Cr Aziz to draft and move motions in favour of the amendment. Cr Aziz was paid for his support on council.

In 2018, council approved the amendment without debate, despite the council's planning officers' advice to reject the proposal.

### Key findings



**Operation Sandon found that in relation to planning matters, council processes were insufficient to:**

- prevent improper conduct
- manage conflicts of interest
- maintain integrity.

IBAC found that robust planning processes are required to guard against improperly influenced proposals and amendments.

IBAC's planning recommendations aim to:

- reduce the incentive for corrupt conduct associated with decisions to change the permissible use of land by introducing mechanisms to tax or otherwise capture "windfall" increases in the value of land that is rezoned from a low-value use to a higher-value use (e.g. where agricultural land is rezoned for residential use)
- strengthen the requirement to provide strategic justification to increase transparency and safeguard the decision-making process against manipulation
- delegate the decision-making authority to council officers and an independent, expert panel to mitigate the risk of improper influence in planning decisions, which is intended to also:
  - reduce the risk of a decision-maker having a conflict of interest
  - ensure a higher level of planning expertise among the decision-makers is maintained
  - increase transparency in the delegation and decision-making process.

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## Recommendations

The Operation Sandon special report makes 34 recommendations to address the risk of corruption, improper influence, and the strengthen the planning policy decision-making process that incentivise corruption in council decision-making processes.



The following recommendations are specific to planning.

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### PLANNING

#### Recommendation 2

4.3.1

IBAC recommends that the Premier ensures that the Implementation Inter-departmental 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

4.3.3

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

4.3.4

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

4.3.4

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.

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## Recommendation 6

4.3.5.1

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

4.3.5.2

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

4.3.6.1

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

4.3.6.2

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

4.3.7.3.7

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.

## Recommendation 11

4.3.7.3.7

**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

4.3.7.3.7

**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.**

IBAC's proposed reforms are designed to be implemented across local and state government to minimise the corruption risks identified in Operation Sardon.

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 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 these reforms, safeguard Victoria's planning process, and restore community trust that elected officials make decisions in the public interest.

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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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