

Crime and Misconduct Act 2001
[Section 75]

OP GRAND

NOTICE TO DISCOVER
(MISCONDUCT INVESTIGATION)

EXHIBIT No. 74
.....CLERK

TO: Gregory James BETTS
[REDACTED]

I, **ROBERT MARTIN NEEDHAM**, Chairperson of the Crime and Misconduct Commission, reasonably suspect that you are a person who has information, or you are in possession of a document or thing, relevant to a misconduct investigation.

I **HEREBY** require you to give:

a written statement of information of the type specified in the Schedule to this Notice, and relevant to a misconduct investigation; and

stated documents which are in your possession of the type specified in the Schedule to this Notice, and relevant to a misconduct investigation.

TO: Lincoln HANSEN, Anna McDONALD, Karel WEIMAR, Ben DUELL, or Daniel BOYLE of the Crime and Misconduct Commission.

YOU ARE REQUIRED TO COMPLY WITH THIS NOTICE BY:

Giving the statement, document or thing to the Commission Officer/s named above on or before 5:00pm on Monday 22 August 2005 at:

The Crime and Misconduct Commission
Level 3 Terrica Place
140 Creek Street
BRISBANE QLD 4000

DATED this day of 2005

ROBERT MARTIN NEEDHAM
Chairperson
Crime and Misconduct Commission

The postal address of the Crime and Misconduct Commission is:

GPO Box 3123
BRISBANE QLD 4001

Facsimile No. (07) 3360 6333
Telephone No. (07) 3360 6060

The business address of the Crime and Misconduct Commission is:

Terrica Place
3rd Floor
140 Creek Street
BRISBANE QLD 4000

The Case Officer is: Ken BEMI

SCHEDULE

1. All documentation, including information contained upon any computer or computer disk or other electronic storage medium, held by you or that is otherwise in your possession or under your control, recording the relevant details required by Chapter 5 Part 8 of the *Local Government Act 1993* including details of any gift, donations, services, benefits or funds (hereinafter collectively referred to as "gifts") you requested, were provided, or received, directly or indirectly, from any person or entity related to the Gold Coast City Council elections of 27 March 2004 including but not limited to:
 - Correspondence (including email correspondence);
 - Invoices, receipts, remittance advices or similar documents evidencing gifts you requested, were provided, or received; and
 - Statements of account held with any financial institution evidencing gifts you requested, were provided, or received.

2. All files, memoranda, presentations, documents, notes, note books, meeting notes and other records of meetings, emails, correspondence, letters, letters of engagement, diary entries and records, advertisements, promotional material, advices, advertising strategies and records, invoices and records of payment by you (or any other party) and any other documentation whether in printed form or in any other form, including information contained upon any computer or computer disk or other electronic storage medium held by you or that is otherwise in your possession or under your control:
 - Relating to your candidacy or to your election campaign, or the candidacy of another candidate or the election campaign of any group of candidates as defined by section 426 of the *Local Government Act 1993*, in relation to the Gold Coast City Council elections of 27 March 2004;
 - Relating to your dealings with any of the following: Lionel Barden; the Lionel Barden Commonsense Campaign Fund; the Lionel Barden Common Sense Trust; the Common Sense Trust; the Lionel Barden Trust; the Power and Robbins Trust; Mandra Pty Ltd trading as Quadrant; Hickey Lawyers; Great Southern Land G.M.B.H.; Ray Group Pty Ltd; Gregory Phillips; Sunland Group Limited; Phil Sullivan; Fish Development Pty Ltd; Devine Ltd; Rapcivic Contractors Pty Ltd; Roche Group Pty Ltd; Villa World Limited; Ingles Group (QLD) Pty Ltd; Blue Sky Capital Pty Ltd; and Stockland Development Pty Ltd; or any person or entity associated with the aforementioned persons or entities in relation to the Gold Coast City Council elections of 27 March 2004; and
 - That may indicate the nature and extent of the association between yourself and David Power, Ron Clarke, Raymond William Hackwood, Robert La Castra, Edward (Ted) Shepherd, Sue Robbins, Jan Elizabeth Grew, Grant James Pforr, Brian Philip Rowe, Robert Molhoek and Roxanne Scott in respect of the possible nomination and election of any of those persons at the Gold Coast City Council elections of 27 March 2004.

3. A written statement of information detailing all donations, gifts, services, benefits or funds (hereinafter collectively referred to as "gifts") you or your campaign committee requested, were provided, or received either directly, or indirectly through another person or entity, and whether or not requested, or provided, or received wholly by yourself or in conjunction with others, from any person or entity related to the Gold Coast City Council elections of 27 March 2004 including but not limited to:

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 - Correspondence (including email correspondence);
 - Invoices, receipts, remittance advices or similar documents evidencing gifts you requested, were provided, or received; and
 - Statements of account held with any financial institution evidencing gifts you requested, were provided, or received.

2. All files, memoranda, presentations, documents, notes, note books, meeting notes and other records of meetings, emails, correspondence, letters, letters of engagement, diary entries and records, advertisements, promotional material, advices, advertising strategies and records, invoices and records of payment by you (or any other party) and any other documentation whether in printed form or in any other form, including information contained upon any computer or computer disk or other electronic storage medium held by you or that is otherwise in your possession or under your control:
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3. A written statement of information detailing all donations, gifts, services, benefits or funds (hereinafter collectively referred to as "gifts") you or your campaign committee requested, were provided, or received either directly, or indirectly through another person or entity, and whether or not requested, or provided, or received wholly by yourself or in conjunction with others, from any person or entity related to the Gold Coast City Council elections of 27 March 2004 including but not limited to:

INFORMATION TO ADDRESSEE

GENERALLY

YOU MUST COMPLY WITH THIS NOTICE

Failure to comply with this notice, without reasonable excuse, constitutes an offence which carries a maximum penalty of 85 penalty units or 1 year's imprisonment.

An offence is not committed if the information, document or thing—

is subject to privilege;

OR

is a secret process of manufacture applied by you solely for a lawful purpose.

Privilege, in the context of a misconduct investigation, means -

- (i) legal professional privilege; or
- (ii) public interest immunity; or
- (iii) parliamentary privilege

and includes a claim on the ground of confidentiality. "Confidentiality" means a ground recognised at law that giving an answer, or disclosing a communication or document, would be a breach of an oath taken or statutory or commercial obligation or restriction to maintain secrecy.

By complying with this notice, **YOU DO NOT**—

contravene a provision of an Act or law imposing a statutory or commercial obligation or restriction to maintain secrecy in relation to the information, document, or thing;

OR

incur any civil liability in relation to the information, document or thing.

SHOULD YOU HAVE A CLAIM OF PRIVILEGE

The commission officer is to consider the claim. The commission officer may withdraw the requirement in relation to which the claim is made **OR** may advise you that you may apply to or be required to attend before the Supreme Court to establish the privilege under section 196 of the *Crime and Misconduct Act 2001* (Q).

IF

a claim is made in relation to a document or thing you are required to give or produce to the commission;

AND

the document or thing is in your possession or you acknowledge the document or thing is in your possession;

AND

the commission officer does not withdraw the requirement;

THE COMMISSION OFFICER MUST REQUIRE YOU TO IMMEDIATELY SEAL THE DOCUMENT OR THING [the "SEALED EVIDENCE"] AND GIVE IT TO THE COMMISSION OFFICER FOR SAFE KEEPING.

YOU MUST IMMEDIATELY SEAL THE DOCUMENT OR THING UNDER THE SUPERVISION OF THE COMMISSION'S REPRESENTATIVE. [A failure to do so constitutes an offence which carries a maximum penalty of 85 penalty units or 1 year's imprisonment.]

YOU AND THE COMMISSION'S REPRESENTATIVE MUST IMMEDIATELY DELIVER THE SEALED EVIDENCE TO A REGISTRAR OF THE SUPREME COURT TO BE HELD IN SAFE CUSTODY.

The Registrar is to keep the sealed evidence in safe custody until—

(a) application is made to a Supreme Court judge to decide the claim of privilege;

OR

(b) the end of 3 court days after the day on which the document or thing is given to the registrar, if an application has not been made under paragraph (a);

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SUMMARY:

This submission details the nature of my association with Councillors and candidates in the election campaign for the Gold Coast City Council elections of 27 March 2004.

I refute any claims that I am part of a group or ticket of Councillors and I do not make preferential decisions for any particular individual or group unless it is in the public interest. An example of this would be that I have, on occasion, supported car parking relaxations for Development Applications from community groups, such as surf clubs.

My opinion is that this investigation has been the result of a minority "group" of Councillors and their supporters (mostly failed candidates from Council and State elections) who have the total support of the media because of the conflict that it has caused in Council. (Also because of personal friendships with reporters). The media thrives on this and it should be noted that it was the Gold Coast Bulletin that came up with the name "The Bloc". Since that time this name has been used to refer to some Councillors, including myself, as "a pro-development bloc of Councillors" or a "pro-development voting bloc in Council". If I had the money to do it, I would take legal action against them for defamation of my character. I admit to being pro-business and I am also pro-community, but I am not pro-development. I accept that developers and land owners have rights under the law and unfortunately the Integrated Planning Act is very grey about what can and can't be done. My stance is that we should try to achieve balanced outcomes and I will continue to stand by that.

The submission before you will show that I became friends with and received help from Sue Robbins during the election campaign. She also introduced me to an opportunity to receive election funding, at a distance from the contributors.

PURPOSE OF SUBMISSION:

This report is tendered as a result of a NOTICE TO DISCOVER (Misconduct Investigation) issued to me by Police on behalf of Robert Martin Needham, Chairperson Crime and Misconduct Commission, on Friday 12 August 2005.

BACKGROUND:

The reason for my decision to stand as a candidate in the Gold Coast City Council elections of 27 March 2004 was based on a long standing personal goal of one day becoming involved in the decision making process of the area I lived in. From a young age I was interested in news and current affairs shows on TV and in reading newspapers. At the age of twenty-one, while on an extended backpacking holiday overseas, I decided that my path should be Local Government as it is closer to the issues that affect people on a daily basis. The other attraction to Council for me was that it was a group of individuals who independently represent their area. I am not very interested in political parties.

My wife and I decided to move to the Gold Coast from our hometown of Brisbane in 1997. We wanted to settle somewhere that had a slightly slower pace than the capital, but still had the services and facilities of a city. I worked for Qantas and arranged a transfer to Coolangatta airport. The Gold Coast made sense to me because my background is in the tourism industry and I am a keen surfer.

In 2000 there was a Council election and I briefly considered standing as a candidate, however the timing was not right. We had not lived in the area for long and we had very young children. Although I did consider being a candidate, in the back of my mind I actually believed that, at thirty-four years, I was too young. My ambition to enter Local Government was something that I knew I would do "one day", but there was no rush to do it.

As the 2004 elections were approaching there were a couple of things that cemented my decision to make my run. First was that our jobs at Qantas were constantly being scrutinized by the company for potential redundancy, so I thought it was time to consider a career change. Secondly, the incumbent Councillor in my area (who was in his first term), was constantly in conflict with the local residents group and often received poor media coverage. I considered that this was my chance, so I went to it.

I discussed the idea with a trusted work colleague who fully supported me and in fact he became an invaluable source of help with a range of things from speech writing to door knocking strategies and he even funded my first advertisement. He believed that it was best to get out in the community as early as possible and become known as the alternative option to the incumbent Councillor.

In November I had a flyer delivered to residents via a letterbox drop, announcing that I would be a candidate and outlining all the issues that I felt were important. This flyer was given to Paul Gamin (the previous area Councillor) by the barber that he and I both used. Paul contacted Councillor Sue Robbins and told her about my flyer. Sue had a look at it and my web site and she then contacted me. We talked and discovered that we were "like minded" in our opinions to many issues. She made the decision that I was someone with "common sense" and was worth supporting. Sue was worried that Irene Wareing (President of the Friends of Burleigh Association) had a good chance of winning the election in my area unless someone else better came along. She believed that I was that person.

The Friends of Burleigh had attacked Sue in their newsletters and she did not want to see Irene in Council because she considered her to be an extremist who reveled in getting media attention about town planning issues, even though she did not understand the legislation.

Sue Robbins became a good friend during the election campaign and we spent many hours discussing strategies over the phone at night. I call her my political mentor. She introduced me to a meeting of candidates at Quadrant advertising agency where it was suggested that there could be some funding available for us if we were interested. I was keen to know what the catch was because I would not accept money with any strings attached. I was told that the business community was sick and tired of the squabbling within the ranks of our Council and believed that it needed fresh blood. Decisions were being put off because they were controversial and the City was stagnating politically. The Councillors that were present advised us that we would not be expected to vote on issues in any particular way. What was needed in the City was a few more people with a bit of "common sense". We were not going to be a group or party, we were all independent. This fact was highlighted to us during the meeting after the Councillors had a disagreement about an issue and one said, there you go we don't all agree on things, but we can discuss them in a civil and professional manner.

After that meeting I advised Sue that, on the grounds that I would still be independent and not be expected to vote in an agreed way, I was happy to accept any financial help that was offered. Another meeting was organized by Quadrant to get the candidates together and find out how we wanted to run our campaigns and the kind of advertising that we wanted to do. After that I went to Quadrant on a number of occasions to discuss my individual requirements with either Chris Morgan or Dana Morgan.

After the State election was held, Max Duncan, (the failed National Party candidate for Burleigh) announced that he would stand as a Council candidate in my Division. He had a high profile so I decided to have "INDEPENDENT" printed on my brochures to counter his political affiliations. I think Quadrant printed it on other candidate's material as well. In the end, Max decided not to run anyway.

As the Council election got closer there was some speculation in the media about a "slush fund" being set up to help some candidates in the election. Some Councillors were asked if there was a "ticket" of candidates that they knew of. They denied the existence of such a ticket and that was the truth. As we heard at the very first Quadrant meeting, the candidates that were to receive funding through the Trust Fund were not a ticket or group. We did have a common source of funding, but that was where the association ended.

Towards the end of the campaign Judy Gamin suggested that I contact John Hembrow of RayJon Properties, as he may be able to help out with some funding for my campaign. I had a meeting with John and Jeremy Dunn and they told me that their main concern with Council was that they could not get decisions from it. They said that they didn't care if the answer was yes or no, they just wanted an answer so that they could get on with business. I agreed with that, but I did not promise them anything should I be elected. The issue of funding was not discussed at that meeting. A couple of days later they contacted me and offered to help me with some campaign funding if I wanted it. I declined the offer. My concern was that I did not want to take any money from developers as residents may think that any future applications from their company would be "pushed through" Council by me because they had funded my campaign. That was what I liked about the Trust Fund concept, I was accepting funds at arms length, nobody had control over me and I didn't owe anything to anyone.

DISCUSSION:

Schedule 1.

I have supplied all documentation that has been requested in the SCHEDULE to the best of my ability. There were emails sent between myself and Cr Sue Robbins over the period of the election campaign. Those emails were generally from me to her, asking various questions about the ins and outs of running an election campaign. For example, how to do a Media Release. However, more often, we discussed these issues over the phone at night. Sue became my mentor, and although I had only met her during the election, we became good friends very quickly.

Only a matter of about a month ago, my computer sustained a virus and I had to reinstall the original software to get it running again. I did back up my files, both during and after the election, but that did not include emails. They may still exist somewhere on the hard drive, but I don't know how to get them. On 15 August 2005, I rang the office of the C.M.C. and spoke to Officer Karel Weimar. I advised him of the problem I had providing these emails and I asked whether they were able to help me retrieve them. He advised that he would pass that information, along with my contact details, to the investigating officer.

The relevant documents to Schedule 1 are tabled as attachment 1 to this submission.

Schedule 2.

All documents relating to item 2 of The Schedule are contained in attachment 2 of this submission.

These documents consist of the following:

- All documents in my possession that relate to my own campaign and that of any other candidate that is in my possession.
- All documents that relate to any person or company listed in The Schedule, Item 2.

Schedule 3.

My campaign funding consisted of the following gifts:

- My campaign advisor (and workmate from Qantas), Clive Lord, provided me with a gift of an advertisement in The Gold Coast Sun newspaper. This was my first advertisement and it cost Clive \$287.59. See attachment 1.3.1 of this submission.
- Two cheques, plus in kind support, provided through a Trust Fund set up to assist "Commonsense Candidates" commonly referred to in the media as The Lionel Barden Trust Fund. I have also heard this Trust Fund referred to by the media and some Councillors with other names such as "The Common Sense Trust" and "The Slush Fund". I remember only ever referring to the Trust fund as "The Trust Fund" when talking to Quadrant and Sue Robbins. The first cheque was deposited into my campaign account on 29 January 2004 and it was to the value of \$7000.00. The second cheque was for \$5000.00 and was banked on 01 March 2004.
- The in kind support was received through Quadrant Advertising Agency to the value of \$24,978.97 and was for various items such as: art work, printing, delivery, and purchase of goods used to advertise my candidacy for the March 2004 Gold Coast City Council elections. Quadrant received a payment of \$8000.00 from me through my campaign account on 04 March 2004 and the balance owing (\$16,978.97) was paid to them through the Trust Fund. The full details of this are supplied in Attachment 1.1 of this submission.

I was not aware, nor interested, in the names of persons or companies that donated money to the Trust Fund. It was explained to me by Sue Robbins that the identity of the donors was better left unknown, as that was how State Government candidates ran their campaigns. She also said that this was how the then Mayor (Gary Baidon) ran his campaign as well. This way, there was no way anyone could accuse me of showing favoritism to anyone after the election. Sue was very proud of the fact that she always funded her own campaign.

Schedule 4.

- In relation to the Gold Coast City Council elections of 27 March 2004, I confirm that my dealings with the persons or companies listed below were as follows:

Lionel Barden – During the election campaign I did not know who he was. In around the last week of the campaign I received an email from Quadrant advising me of a planned meeting between the candidates who were receiving funds from the trust, with Lionel Barden and some of the donors to the trust. I did not feel comfortable with this and when I asked Sue Robbins if she thought it was a good idea, she told me that she thought it was not. She said that the idea of being funded by a Trust was that you don't know where the money is coming from and therefore you cannot be accused of favoritism after the election. I totally agreed with this and I told Quadrant that I was not interested in going to the meeting. My understanding is that Sue told Quadrant what she thought of the meeting and as far as I know, it did not proceed. Some time (maybe June or July?) after the election I was briefly introduced to Lionel Barden when he was standing outside the Evandale Council Chambers with some colleagues, waiting to have a meeting with Council Officers. I said something along the lines of "Hello, nice to meet you", and I have never spoken to him before or after that.

The Lionel Barden Commonsense Campaign Fund – This is one of the many names used to label the Trust Fund that I received financial and in kind support from in the Gold Coast City Council elections of 27 March 2004. As discussed above, I referred to it as The Trust Fund. Documents received by me from Quadrant in about June 2004 (see attachment 1.1.3) show the name of the fund to be the Lionel Barden Trust and the Lionel Barden Trust Account.

The Lionel Barden Common Sense Trust – as above.

The Common Sense Trust – as above.

The Lionel Barden Trust – as above.

The Power and Robbins Trust – as above.

Mandra Pty Ltd (trading as Quadrant) – this was the name of the company that organized the bulk of my campaign advertising and material. I had not heard of the company until Sue Robbins invited me to a meeting at their premises, which was held on 16 December 2003. Councillors and candidates were present. There was a second meeting at Quadrant on 08 January 2004. My memory of that meeting is that David Power was the only Councillor present and he only stayed a short time as he had his two sons with him. During the period of the election campaign I went to Quadrant on a number of occasions to discuss my campaign material with both Chris Morgan and Dana Morgan of Quadrant.

Hickey Lawyers – This is the Law firm that distributed two cheques to me from the Trust Fund for use in my campaign. I visited their premises once to collect the first cheque from reception and the second one was posted out to me.

Great Southern Land G.M.B.H. - I had not heard of this company, but I now believe it was a contributor to the Trust Fund. I have not had any dealings with the company.

Ray Group Pty Ltd – This is a very high profile company and I had heard of it before the election. I have not had any dealings with the company.

Gregory Philips - I had not heard of this person, but I now believe he was a contributor to the Trust Fund. I have not had any dealings with him.

Sunland Group Limited - This is a very high profile company and I had heard of it before the election. I have not had any dealings with the company.

Phil Sullivan - I had not heard of this person, but I now believe he was a contributor to the Trust Fund. I have not had any dealings with him.

Fish Development Pty Ltd - I had not heard of this company, but I now believe it was a contributor to the Trust Fund. I have not had any dealings with the company.

Devine Ltd - This is a very high profile company and I had heard of it before the election. I have not had any dealings with the company.

Rapcivic Contractors Pty Ltd - I had not heard of this company, but I now believe it was a contributor to the Trust Fund. I have not had any dealings with the company.

Roche Group Pty Ltd - I had not heard of this company, but I now believe it was a contributor to the Trust Fund. I have not had any dealings with the company.

Villa World Limited - This is a very high profile company and I had heard of it before the election. I have not had any dealings with the company.

Ingles Group (QLD) Pty Ltd - This is a very high profile company and I had heard of it before the election. I have not had any dealings with the company.

Blue Sky Capital Pty Ltd - I had not heard of this company, but I now believe it was a contributor to the Trust Fund. I have not had any dealings with the company.

Stockland Development Pty Ltd - This is a very high profile company and I had heard of it before the election. I did not have any dealings with the company until after the election. Two of the company's representatives met with me in my office earlier this year to discuss The Observatory Estate that they are developing in my Division. After that meeting, I faxed a suggestion through to them about an idea that I had about setting up a private community bus service in conjunction with Council, The Observatory, Stocklands Burleigh Heads shopping centre, the Burleigh CBD businesses, and the tourist accommodation operators along The Esplanade. It would be a gold coin donation and help to improve the public transport situation in Reedy Creek (where The Observatory is). I never received a reply.

- In relation to the Gold Coast City Council elections of 27 March 2004, the nature of my association with individuals listed below is as follows:

David Power – I met David Power at the two meetings held at Quadrant advertising agency on 16 December 2003 and 08 January 2004. He gave advice on how to run an election campaign at the first meeting, but he left the second meeting early and I don't think he said very much at all at that one. Those were the only occasions that I had any contact with him until the Councillors Dinner held after the election on 06 April 2004.

Ron Clark – I appeared in a photo for a newspaper article about the saving of the Miami bush land, standing with a group of politicians and activists that included Ron Clark, Jan Grew and Margaret May. (see attachment 2.3.1) They did not know who I was, but I managed to shuffle my way into the front row. I was hoping to be seen in the paper, as I was about to start my Council election campaign. I was impressed by Ron Clark's speech and I sent him an email telling him so. I also said that I would like to meet him as I was going to be a candidate in the election. We arranged to meet at Mermaids restaurant for lunch. We discussed election issues and after that lunch I sent him an email telling him that I looked forward to sitting in the Council Chambers with him after the election. That was the last time I had any contact with him until the above-mentioned Councillors Dinner after the election.

Ray Hackwood – I did not meet or speak to Ray Hackwood before the election, however, I did receive an email from him (his office) regarding a bikeway that I was asking about at Varsity Lakes.

Bob La Castra – I did not know, or have any contact with Bob La Castra until after the election.

Ted Shepherd – I met Ted Shepherd at the first Quadrant meeting on 16 December 2003 where he gave advice on running an election campaign.

Sue Robbins – The first time I spoke to Sue was on 27 November 2003 when she called me on my mobile phone. She said that she had heard about me because of my letterbox drop and that she had seen my web site. She said that she would like to meet me, if I was interested. We met a couple of days later at Currumbin on the beachfront Esplanade and we sat in her car and talked for about an hour. We hit it off straight away, and we became very good friends during the election campaign. We talked about how she was getting calls from residents in my area (Division 12) because she used to represent most of it as an Albert Shire Councillor before it was amalgamated with the Gold Coast. She told me that these people were not happy with the service that they were getting from their Councillor (Peter Drake) so they were asking her to help them with getting Council related issues sorted out. She was getting sick of this extra workload. She knew that Peter Drake was not popular with his constituency and she saw the election as a way to help someone with a bit of "common sense" across the line.

(Peter Drake was accused by residents of being "developer friendly" and my web site talked about having balance in Town Planning issues. Sue was looking for someone with common sense, not a developer friendly candidate).