

Statement

By the Chairperson, NSW Electoral Commission

NSW local councillors successfully prosecuted for failing to disclose political donations and electoral expenditure

The NSW Electoral Commission has successfully prosecuted six local government councillors for failing to disclose political donations and electoral expenditure for the 12-month period ending 30 June 2016. Those prosecuted included councillors from Auburn Council (now Cumberland Council), Newcastle City Council and Rockdale City Council (now Bayside Council).

Failure to disclose political donations and electoral expenditure is a criminal offence under NSW law where the maximum penalty is fines of \$22,000 in the Supreme Court or \$4,400 in a local Court. All local government councillors are required to lodge disclosures with the NSW Electoral Commission by 22 September, for each year in which they were a councillor.

No disclosures were lodged by or on behalf of the six councillors for the period ending 30 June 2016.

An investigation into each matter found that the councillors had failed to disclose on more than one previous occasion. Consequently, in five of the cases a decision was made by the Electoral Commission to prosecute the councillors. In one case a councillor was issued with a fine of \$1,100 but he elected to have the matter determined by the court.

The offenders were prosecuted in the Local Court by the Crown Solicitor's Office on behalf of the Electoral Commission.

Penalties applied by the Court ranged from fines of up to \$4,000 to good behaviour bonds. Two councillors appealed the severity of their sentence which resulted in reduced sentences. Details of the prosecutions are at the end of this statement.

Four of the councillors have subsequently submitted disclosures, however two have not. NSW law does not compel disclosure even if a person is found guilty of not disclosing.

The Hon Keith Mason AC QC, Chair of the Electoral Commission, said "The Commission takes seriously the rules of disclosing political donations and expenditure and will take enforcement action against individuals that, on the information known to the Commission, have broken the law.

Disclosure shines a light on the electoral finances of political participants and is an important way to foster transparency, promote awareness, and encourage compliance with the law. It provides NSW citizens with information to help make informed decisions about their political participation".

Political donations and electoral expenditure that are disclosed to the Electoral Commission are audited to ensure compliance with the law and are published on the NSWEC website. Political donations and electoral expenditure are available in a searchable format at <http://searchdecs.elections.nsw.gov.au/search.aspx>

ABOUT THE NSW ELECTORAL COMMISSION

In December 2014, the three member Electoral Commission was constituted. It is separate to the agency led by the Electoral Commissioner. The Commission is an independent, statutory authority. It approves public funding to the political parties and others and enforces the provisions of four NSW

Acts. These provisions govern electoral funding, expenditure and disclosures, the conduct of State and local government elections and the lobbying of government officials. The Commission's Chairperson is the Hon Keith Mason AC QC, a former President of the NSW Court of Appeal (1997 to 2008). Information about this independent Commission's work can be viewed at:

www.elections.nsw.gov.au/about_us/work_of_the_commission.

More information about funding and disclosure laws is available at: www.elections.nsw.gov.au/fd

2015/16 disclosure period – Failure to Lodge a Declaration of Disclosure
Prosecutions under s. 96H(1) of the *Election Funding, Expenditure and Disclosures Act 1981*

Defendant and capacity in which failed to lodge declaration	Plea	Sentencing date	Penalty/Orders (after finalisation of appeals)
Shane O'Brien (former) <i>Elected member</i> Rockdale City Council (now Bayside Council)	Matter dealt with in the defendant's absence.	30 May 2017	<ol style="list-style-type: none"> 1. Convicted 2. Fined \$3500 3. Costs of \$267 4. Moiety of 50%**
Lisa Tierney (former) <i>Elected member</i> Newcastle City Council	Matter dealt with in the defendant's absence.	30 May 2017	<ol style="list-style-type: none"> 1. Convicted 2. Fined \$4000 3. Costs of \$459 4. Moiety of 50%**
Salim Mehajer (former) <i>Elected member</i> Auburn Council	Written plea of guilty on the day of hearing.	14 November 2017	<ol style="list-style-type: none"> 1. Convicted 2. Fined \$3300 3. Moiety of 50%** 4. Costs of \$3,487
Name withheld*			
Name withheld*			
Name withheld*			

* name withheld where conviction not recorded in accordance with section 10 of the *Crimes (Sentencing Procedures) Act 1999*.

** section 122 of the *Fines Act 1996* provides that a magistrate can order that part of a fine (no more than 50%) is to be paid to the prosecutor. This is known as 'moiety' and means in the above cases that the NSW Electoral Commission will be paid part of the fine and the amount will then be forwarded to NSW Treasury