8th July, 2015

Executive Officer
Electoral Matters Committee
Parliament House
Spring Street
EAST MELBOURNE, Vic. 3002

emc@parliament.vic.gov.au or eSubmission

Dear Executive Officer

Please accept this as a submission to the Committee’s Inquiry into the Conduct of the 2014 Victorian State election.

This submission is relevant to a) and c) of the Committee’s functions:

to inquire into, consider and report to the Parliament on any proposal, matter or thing concerned with:

- the conduct of parliamentary elections and referendums in Victoria
- the conduct of elections of Councillors under the Local Government Act 1989
- the administration of, or practices associated with, the Electoral Act 2002 and any other law relating to electoral matters.

This submission contends that two organisations, Get Up and Friends of the Earth (FOE) together with their candidate, Ms. Tracie Lund, misled and deceived voters during the 2014 Victorian State election in the electorate of Morwell District. In the lead up to the election and during the entire election period, Ms. Lund was misrepresented as an independent community candidate backed by a local and independent campaign group (LV First). This misrepresentation appeared on all printed campaign materials, in electronic advertising, in media reports and during public appearances.

In fact, Get Up and FOE selected Ms. Lund to stand in the election. Throughout 2014, they manufactured Ms. Lund’s public profile as a ‘community champion’, organized her public activities and media exposure, established and ran LV First, materially and financially supported her election campaign and controlled its major activities. Ms. Lund’s campaign organizers and backers intentionally deceived voters by deliberately withholding and keeping from public view their defining role in her candidacy and campaign activities.

We estimate Get Up contributed approximately $130,000-$150,000 in the form of funds for advertising and printed materials, electronic advertising, two paid campaign workers for two months (approx.) and a full time campaign organizer/manager for most of 2014.

Publicly, FOE and Get Up support snap closure of Hazelwood power station. Hazelwood is located in Morwell District Electorate as are all other Latrobe Valley based power stations. Any candidate with publicized links to FOE and/or campaigning in support of the rapid closure of Valley based power stations would find some difficulty attracting widespread voter support. (FOE’s campaign organizer for the Lund campaign, Mr. Shaun Murray, and other paid campaign workers acknowledged this privately to some local LV1st members during the campaign - see supporting information below). As further example of this, in the week before the November poll Victorian Greens energy spokesperson, Mr. Greg Barber, publicly announced Greens Party support for snap closure of
Hazelwood power station. The primary vote of Morwell District’s Greens candidate, Mr. Dan Caffrey, was 4.72 percent compared to Ms. Lund who polled 10.91 percent, almost three times more than Mr. Caffrey.

Maintaining the illusion of independence by hiding the identity (and policies) of her backers and the generosity of their campaign budget, at the same time as harnessing community concern about the Morwell open cut mine fire, were the key elements in shoring up Ms. Lund’s vote in the electorate. We suggest that without the hidden support, funding and campaign resources of Get Up and FOE the vote for Ms. Lund, a political novice and relative newcomer to the Latrobe Valley, would have languished at less than 1 percent, in line with other minor party candidates and the only independent candidate. Yet, with public funding of election expenditure at $1.58 (est.) per primary vote, it seems that Ms. Lund and associates are now eligible for almost $7000 in election expenditure reimbursements.

We contend that the magnitude of deception in Morwell District electorate during the 2014 Victorian State election necessitates amending the Victorian Electoral Act (2002) to improve the transparency and accountability of groups and organisations providing support to candidates.

We note that in its submission to the current Federal House of Representatives Inquiry into the register of environmental organisations, FOE’s submission¹ asserts that:

*If the committee wishes to look to international jurisdictions for examples of best practice, it would be wise to consider the situation in the European Union. The strongest protections for political advocacy have been recommended by the Council for Europe, which recommended that non-governmental organisations should enjoy ‘the right to freedom of expression’, and in particular…the right ‘to support a particular candidate or party in an election or a referendum provided that they are transparent in declaring their motivation’ (subject to legislation on the funding of elections and political parties). (p 8)*

We agree and believe that the VE Act 2002 should require groups and organisations, including NGOs, to declare their ‘motivation’ formally and publicly to voters during elections.

Accordingly, this submission recommends the following amendments to the VE Act 2002:

- during an election campaign period, groups and organisations (as defined by the Act) that are supporting candidate/s must be required to notify voters of their support in prominent print media;
- during an election campaign, groups and organisations must be required to file a report to the Victorian Electoral Commission providing details of their support for candidate/s;
- in the event that groups and organisations fail to advertise their support for a candidate and/or file a report with the Victorian Electoral Commission penalties should apply to the groups, organisations and candidates in receipt of their support;

Additionally, in light of the deception perpetrated against voters in Morwell District electorate by Get Up, FOE and Ms. Lund during the 2014 Victorian State election underpinning her primary vote, we believe Ms. Lund should not receive publicly funded election expenditure reimbursements. If such funds have already been disbursed to Ms. Lund, we believe they should be recovered and returned to the public purse.

¹ Friends of the Earth (submission 297) to the House Inquiry into the Register of Environmental Organisations p 8
Supporting Information

Get Up and Friends of the Earth (FOE) located a full time campaign organizer, Mr. Shaun Murray, in the Latrobe Valley during the Morwell open cut mine fire (summer 2014). At the time, there was widespread and understandable local community concern and distress triggered by the fire and its plume.

What appeared initially to be a legitimate advocacy and community development activity quickly transformed into a professionally organized, fully funded election campaign with a political candidate. The transformation was not by accident or a situation whereby one activity naturally morphed into another. More correctly, the agenda of Get Up, FOE and their presence in the Latrobe Valley became apparent over time.

Get Up and FOE’s ownership, control and funding of its election campaign was hidden from public view in the Latrobe Valley at all times. Their candidate, Ms. Tracie Lund, was unerringly presented throughout 2014 and the election period as an independent, local community candidate. Voters were urged to support her on that basis.

The strategy of deception used by Get Up and FOE depended on the exploitation and manipulation of the genuine concerns and expectations of residents in Morwell District electorate. Latrobe Valley residents were and are desperate for political representation responsive to our needs and hopes. All political parties, big and small, are widely identified as having ignored or abandoned our region and our communities for decades.

The Morwell open cut mine fire acted as a catalyst to mobilize local people out of their despair and despondency. They wanted an immediate response to the mine fire and they were in the mood to shape a longer term political response to the situation. Mr. Shaun Murray arrived unannounced in the Latrobe Valley in the midst of this mood shift, immediately moving into centre stage by offering assistance, leadership and organizing capacity into a grouping of people that was consolidating into an entity known as Voices of the Valley (VotV).

In practical terms, Mr. Murray was the leader, central organizer and driver of VotV almost from its earliest beginnings. Most of the local people who joined VotV had no prior community and political organizing experience. They were receptive to Mr. Murray’s approach which he said was based on his research of the Cathy McGowan Indi ‘model’.

Almost from the beginning of his Latrobe Valley placement, Mr. Murray was sounding out the prospect of running a candidate in the Victorian State election in Morwell electorate and had started (privately) scouting for potential candidates. He turned the attention of VotV members to promoting and hosting his ‘kitchen table conversation’ activities in order to give the appearance of local views and opinions being heard in (his) VotV campaign process.

People active in VotV accepted on face value Mr. Murray’s explanations about his own background and experience – that he had previously worked for FOE but didn’t any more, that he was donating his time into the Latrobe Valley in an unpaid capacity, that his independently wealthy circumstances provided for his needs.

At the same time as Mr. Murray was denying any current association with FOE, he was listed on the FOE official website as its national anti-coal campaigner and organizer, using his FOE mobile phone in his VotV activities, and providing VotV members with his FOE email address (Attachment 1). This has continued to be his active email address throughout 2014 to current.
In or around June-July 2014 members started developing doubts about Mr. Murray’s tight control of VotV. They had also started questioning him about his FOE associations and agenda.

In July 2014, Mr. Murray announced to VotV that he had established another group called Latrobe Valley First (LV1st). Below is an excerpt from the VotV minutes of their July 2014 meeting documenting Mr. Murray’s report to the meeting:

“Kitchen Table Conversations, groups of importance, Candidates? Formed a group called Latrobe valley 1st, this came about because of a poll in the age, 50% of Morwell seats are undecided so good opportunity to get independent going. Indi campaign inspired the idea. Shaun is working on this around the clock until the election. Believes we have a good chance of winning. Need a strong independent. Jayden Mintern not the strongest candidate. Need to build a base quickly. Have 4 months. We have an interested candidate in principal. Kitchen table convo’s happen before the candidate is announced. 10 questions around a table of 10 people having a discussion. Indi did 55 conversations but we are looking at 20-30 to collate and produce a community platform report. Political candidates will be approached to see if they can support the things the community want and then threaten them with an independent.

September candidate announced. Trying to create a consensus. Different sort of politics.

Platform – good for the local community and business. There is a bunch of roles that need filling. 

 asked if we support the campaign? voices aspires to be open and apolitical, may want to hold back a bit as a group. keen on individual basis. As an organisation inspiring to be non political for months.

The process of producing the document with the needs of the community is I think worthy of supporting.

, need to be mindful that not all people are supportive to VOTV. A lot of people are employed locally.

Approval for Russell is low so good chance of candidate getting a good footing. - KTC starting next Thursday 31st.

Advertisements will be made over the next week. We support the KTC process.

We want to be an Advocacy group not a lobby group. LV1.org should be up by the end of the week

wants to go door knocking sat morning in her court and invite them to her home on a night.

Meeting tomorrow night at 6 here, all welcome. Recruiting for people to fill roles. Neighbourhood co-ordinators will be needed further down the track. Community champions, people that publicly endorse LV1. Looking for suggestions from group. Let Shaun know if you’re interested in becoming involved.” (Minutes of VotV 23/7/14)

LV1st did not operate as a local election campaign coordinating committee. Major campaign activities were controlled from outside of the committee, and outside of the Latrobe Valley. The most important role of LV1st was to give this externally controlled and funded campaign a local face as per the Minutes: “recruiting for people to fill roles...community champions, people that publicly endorse LV1, looking for suggestions from group. Let Shaun know if you’re interested in becoming involved”.

LV1st ‘community champions’ were effective during the campaign period writing regular ‘letters to the Editor’ of the Latrobe Valley Express promoting variously LV1st, Ms. Lund’s independence, or dampening down questions raised by the curious or doubtful. ‘Letters to the Editor’ was the only space in the Latrobe Valley Express where such questions were published.

In the six weeks or so prior to the election, one of us contacted an Express reporter on four separate occasions with the request that they run a story revealing the pivotal role of FOE and Get Up in the Lund campaign. The Express was provided with a copy of the July 2014 VotV minutes and other documentation evidencing Mr. Murray’s ongoing connection to FOE. They would not and did not run the story offering vague excuses. Locally, there was no media reportage prior to the election exposing the backers and organizers of the Lund campaign.

In October 2014, one of us contacted the political editor of a major metropolitan newspaper concerned about misrepresentation of Ms. Lund as an independent candidate. The journalist said that Mr. Murray had made no secret of his FOE association amongst Melbourne-based media and was well known to them as an FOE media spokesperson. Upon being advised that Mr. Murray was keeping his FOE connections a tight secret in the Latrobe Valley and ensuring no reference connected the Lund candidacy and campaign organization publicly to FOE, the journalist was very surprised. On the basis of Mr. Murray’s openness to metro media about his employment status, they had assumed FOE’s backing of Ms. Lund would have been well known and public in the Latrobe Valley. Like many
other people, this journalist hadn’t realized they were being ‘played’ in a strategy of ‘divide and conquer’ meets the ‘tyranny of distance’.

During the campaign, at least one LV1st executive committee member had repeatedly sought a copy of the budget and campaign expenditure statements from Mr. Murray. He refused to provide them. Aware that Get Up was the lead organizer of the campaign, the Committee member made a formal complaint to Get Up’s Sydney office after the election, without response. The complaint was about Mr. Murray’s behaviour and Get Up’s lack of transparency in its conduct of the campaign. The person then emailed and spoke with a Melbourne based member of Get Up. At the time it was not made clear if any action had or was to be taken on these concerns.

On 9th February, 2015 Mr. Murray publicly denied accusations made in an earlier ‘letters to the editor’ contribution (5th February, 2015 LVE) about Mr. Murray, FOE and Get Up’s pivotal involvement and deceptive conduct. In his letter he said:

Firstly, I have only ever been employed by Friends of the Earth (FoE) for two days a week for three months working on a campaign to support local manufacturing jobs in renewable energy at the start of last year. Secondly, FoE is a registered environmental charity and it is therefore illegal for them to support political campaigns”. (‘Setting the matter straight’, LVE 9/2/15 p 12)

Mr. Murray may well not have been on the payroll of FOE but, rather, on the payroll of Get Up as a full time employee. Get Up may have wholly donated Mr. Murray’s full time campaign services into FOE on a tax deductible gift basis. On this basis FOE would have achieved a full time worker funded by Get Up and Get Up would have been able to claim the cost of the donation as a tax deductible gift to an environmental charity.

If Mr. Murray was working on environmental advocacy activities, there would be nothing untoward or ‘illegal’ about this arrangement. However, that was not the case in the Latrobe Valley last year.

Together, the two organisations built a political election campaign in Morwell District electorate in which Mr. Murray gave the appearance locally of wholly donating his full time services into the campaign, during which he set up a local election campaign committee to channel other externally funded and controlled items and services into the campaign. Each step of the way, Get Up’s funding of the election campaign was distanced from its original source, obscuring the relationship between Get Up and FOE.

‘In kind’ gifting of volunteers into an election campaign is not declarable under the Victorian Electoral Act, as we are sure Mr. Murray would have been fully aware when he dealt out the following public admonishment:

‘If Cheryl has evidence that they broke this law, then I suggest she refer this matter to the Victorian Electoral Commission - the number is 131 832.’

We suggest that Get Up and FOE are well versed in constructing election campaign funding arrangements that fully exploit this aspect of the Victorian Electoral Act.

We contacted the Victorian Electoral Commission to confirm the non declarable status of volunteers into election campaigns. In so doing, we learned that the VEC had received a number of complaints about the conduct of the Get Up-FOE campaign, in particular, the ‘community ballot paper’ they sent to every Morwell District household in September 2014.
This financially costly activity raised questions across the Latrobe Valley of the ‘who’s paying for all this?’ variety. At the time, the funding source, Get Up, was a closely guarded secret, the information held tightly within LV1st.

We note that the Lund campaign webpage has been very recently changed to advertise Get Up’s funding of the Morwell District community ballot paper through a new Get Up venture called ‘CommunityRun.org’. It seems that the matter of funding for the Morwell District community ballot paper was a ‘loose end’ that needed some ‘tidying up’. Post election, when it can no longer cause electoral damage to their candidate, funding of the ‘community ballot’ paper has now been publicly claimed as a one-off donation by Get Up. ([http://www.lv1.org/communitycandidates](http://www.lv1.org/communitycandidates)) (See also Attachment 3)

The role of the ‘community ballot paper’ was a critical part of the deception perpetrated by Get Up and FOE, designed to hide their control over selection of their candidate (Attachment 2). It gave the appearance of a fair and open community selection process, when that was not the case in fact.

The July 2014 Minutes of VotV’s meeting refer to Mr. Murray’s scouting for a preferred candidate: “need a strong independent…we have an interested candidate in principal (sic)”’. One VotV member when raising a possible candidate with Mr. Murray some time before, was told: “don’t worry about it. I’ve got that covered”. Mr. Murray had already identified Ms. Lund as ideal for his organisation’s purpose (political clean skin, community worker, no Valley politics, experience or history). Get Up and FOE pre-selected and approved her candidacy privately as early as April-May 2014 and then commenced pre-publicity activities profiling Ms. Lund.

By the time they held their so-called ‘community ballot’ in September 2014 to select the ‘community candidate’, Ms. Lund had already benefited from almost five months of confected publicity as a so-called ‘community champion’.

Attracting and preselecting other nominees to appear on the community ballot paper in this ‘community election contest’ was a tightly controlled exercise. It was important to give the appearance of a contest but not the actuality of one.

The names of only three people, including Ms. Lund, ended up on the ballot paper (Attachment 3). One of the candidates stood, reluctantly, under direct pressure from Mr. Murray to give the appearance of a contest. The other candidate didn’t know the nature of the exercise they had volunteered into. They were quite deliberately ‘kept in the dark’, their sincerity mere fodder to the deeper game being played by Get Up-FOE. This candidate later withdrew from the contest just before the ballot papers were distributed leaving only two candidates: the ‘dummy’ candidate and Ms. Lund.

Despite the national publicity their community plebiscite was attracting, its conduct, including the distribution of ballot papers and the counting of the vote, occurred in a completely opaque, unaccountable way. We are aware of single person households who each received three ballot papers. An LVE reporter told us they had received phone calls from Morwell district residents enquiring as to the status of the ballot paper: did they have to fill it in? Was it the State election ballot paper and poll? Did it mean they had to vote twice, now and later, or only once now?

Although the ‘community ballot’ was publicly proclaimed by LV1st, via the media activities of its backers, as an Australian-first exercise in democratic community election practice, the opposite was the truth. It was a rushed exercise in deceit with the potential to interfere in the conduct of the November State ballot. It could well have led to some voters not participating in the State ballot.
However, as a non-declarable pre-publicity exercise for Ms. Lund and LV1st it was, both ‘clever and cute’ (Attachment 2).

The Get Up-FOE political intervention distorted the conduct of State election campaigning more broadly in the Morwell District electorate. As Mr. Murray crudely reported to VotV back in July 2014:

*Political candidates will be approached to see if they can support the things the community want and then threaten them with an independent. September candidate announced*.

We understand that the ALP, Greens and sitting National candidates were each aware that Ms. Lund was not an independent and being heavily backed by Get Up and FOE. No candidate in Morwell District went public to voters during the election about Get Up-FOE’s active interference and deceptive conduct. We suggest the incumbent was discouraged by a possible voter backlash if he attempted to ‘out’ Ms. Lund and her campaign backers, while the ALP and Greens candidates were encouraged to participate in the deceit by the lure of a preference deal with Ms. Lund and her team.

Given the high moral ground claimed by LV1st, a characteristic which, they said, distinguished them and their candidate from political parties, their hypocrisy infected the tenor of the Morwell District election dragging other candidates into its orbit, leaving voters out in the cold. Here’s an example from an LV1st pre-election publication:

*Many people in the Latrobe Valley are disappointed with the current political process and what it says about our democracy...we believe that each one of us can play a constructive part in lifting standards of behaviour...Latrobe Valley 1st is a group of local residents who have come together to make sure that local issues are heard...we are committed to being honest and respectful...Democracy is the conversation amongst equals to determine what constitutes good life and the good society*.

Get Up and FOE’s behaviour in the 2014 Morwell District election was not framed by the values of *honesty and respect...a conversation amongst equals*. Their secret strategy was hatched and executed in both deceit and conceit to take advantage of local residents, their problems and concerns.

We are Latrobe Valley resident disappointed in the lowering of behaviour in the current political process whereby a small handful of externally located activists teamed up with an even smaller number of locals to hoodwink the majority of Latrobe Valley residents.

We make this submission in the hope that it plays a constructive part in helping lift standards of behaviour within Australian political practice.

Yours sincerely,

Cheryl Wragg | Lisa Sinha | John Stratford
Hi folks,

I've just set up a new email list for the Voices of the Valley organisers. If you want to email the list, just send a message to:

cheers, Shaun

--
Shaun Murray
Community Organiser
Friends of the Earth Australia

This eMail was sent by shaun murray at shaun.murray@foe.org.au
For questions and changes contact the Group Administrator: Shaun Murray at shaun.murray@foe.org.au.
If you want to unsubscribe from this vov@emaildodo.com Group click here
To file a complaint please send an eMail to: complaints@emaildodo.com
Attachment 2: An example of national media coverage for the strategic, ‘clever’ community preselection ballot

The Guardian [Winner of the Pulitzer prize 2014]

Community pre-selection to be held for independent candidate for Morwell

Latrobe Valley residents attempting to replicate Cathy McGowan’s success in Indi will send a ballot paper to everyone aged 16 and over in the electorate in a unique plebiscite

Tracie Lund, one of the three candidates who have nominated for the Latrobe Valley 1st plebiscite, and Ann Pulbrook, right, in Morwell. Photograph: Meredith O’Shea/Guardian Australia

Gay Alcorn
Monday 8 September 2014 12.58 AEST

Former independent MP Tony Windsor says the decision by a local group to run a plebiscite to choose an independent candidate for the Victorian seat of Morwell is clever, and has similarities with the seat of Indi, won in an upset by independent Cathy McGowan at the federal election.

Latrobe Valley 1st has announced that a ballot paper with the names of three people who have nominated will be sent to every voter in the electorate ahead of the state elections in November. It would be up to voters to select the candidate, a process the group believes will be unique in Australian politics.

Latrobe Valley 1st president Gilio Barbara said 16-year-olds would also be able to vote for who they wanted to stand, as would refugees who live in the electorate but who may not be Australian citizens.

“We don’t want to dictate to the people who should be representing them. We want something completely different,” he said.

Morwell is emerging as an intriguing contest, a test of the depth of the disillusionment with major political parties. The dynamics of the seat, held comfortably by the Nationals’ Russell Northe, shifted after the Hazelwood coal mine fire earlier this year blanketed the town of Morwell with ash and smoke for 45 days.
An inquiry released last week found regulatory failures and poor communication during the fire. It also criticised mine operator GDF Suez for failing to prepare for what it regarded as a foreseeable event.

Windsor has spoken often of a deficit of trust in Australians politics and the need for alternatives to the major party system. He said Morwell had some similarities with the federal seat of Indi, where the independent Cathy McGowan defeated Liberal frontbencher Sophie Mirabella after a grassroots campaign to engage local people about political issues.

“The movement was there before the candidate, and that sounds a little bit similar to Indi,” said Windsor. “There’s a bit of politics in it [the plebiscite], but it’s not overly cute, it’s clever.

“It flags that there’s a significant group of people presumably that aren’t happy and who are asking the question, ‘If you’re not happy here’s a different way, get involved. If you are happy well just lie back and accept what’s given to you.’”

The people who have nominated to be the Latrobe Valley 1st candidate are David Wakefield, 36, Tracie Lund, 42 and Hilde Rombout. Voting closes on 29 September.

comments (20)
Our Community Candidates

Latrobe Valley 1st have called for nominations for an independent candidate to contest the upcoming state election. Three nominations stood out as having great potential - they are below.

This will be the first time in Australia’s history a community holds a ballot to select their independent candidate. It’s time for change and we need you to be a part of it.

Can you help us spread the word about this unique initiative? Add your support to the campaign, then share it with your friends and family...

Latrobe Valley 1st would like to thank CommunityRun.org for their one-off grant to help us print and post ballots, and roll out the community preselection across the electorate. In accordance with their values, CommunityRun.org was happy to donate towards this grassroots, democratic initiative but were not involved in the ballot or selection of the candidates.

Will you help spread the word?

First Name

Last Name

Email

Mobile or home phone (mobile is best)*

Address (Street, City, State, Postal code)*

Don't publish this on the website

Like this to spread the word:

The Candidates:
DAVID WAKEFIELD:

Unfortunately David has decided to withdraw from the community ballot. Any preferences for him will be disregarded, and we will instead count people's 2nd and 3rd preferences where indicated.

TRACIE LUND:

Tracie Lund has been the proud manager of Morwell Neighbourhood House since 2012. She lives in Traralgon with her husband of twenty years, Simon, and their three children. In her role Tracie has focused on creating effective community outreach and become a trusted advocate for local businesses and families.

During the Hazelwood fire, Tracie helped emergency services deliver safety information to the community and organised a successful health study petition with over 25,000 signatures.

“I love the Valley and am committed to making it a better place for our children. To build a brighter future, we first need to invest in more jobs, services and better education.”

HILDE ROMBOUT:

Hilde Rombout is a retired psychologist and teacher, and currently volunteers at Gippsland Multicultural Services in Yallourn North. She is also a mother and grandmother. Hilde is concerned
for the welfare of the Latrobe Valley community and is eager to seek solutions to the lack of employment, reduction in education opportunities, infrastructure, diminishing health care, and health effects of the Hazelwood fire.

Hilde is passionate about making the Latrobe Valley a healthy and prosperous environment to live, work, raise children and retire, and is inspired to give the community a new voice that is heard.

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- Sign up with Twitter

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