

**INSPECTOR OF MUNICIPAL ADMINISTRATION**  
**REPORT ON BRIMBANK CITY COUNCIL**

Mr William Ivan Scales AO

Inspector of Municipal Administration

September 2009

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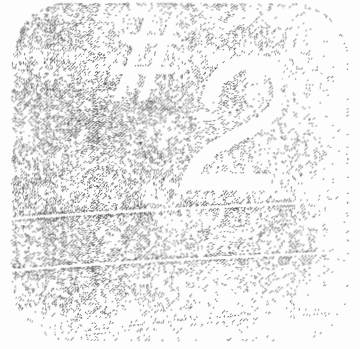
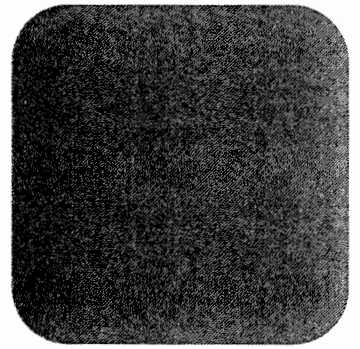
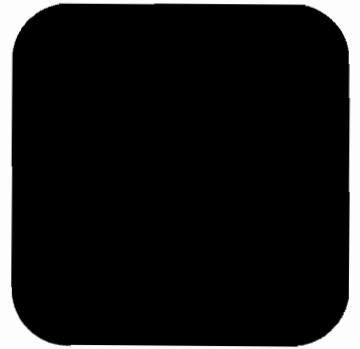
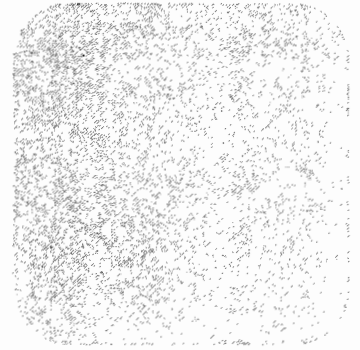
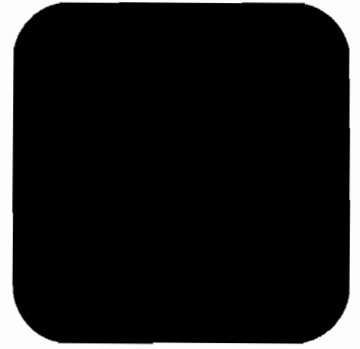
**Brimbank City Council**  
Report on the monitoring  
of the ongoing activities  
and performance of the  
Brimbank City Council

Report to the Hon Richard Wynne MP  
Minister for Local Government

by Mr William Ivan Scales, AO,  
Inspector of Municipal Administration

**Report Number 2**

This report covers the period from June 12, 2009



The Hon Richard Wynne  
Minister for Local Government  
GPO Box 4057  
Melbourne 3000

Dear Minister

I have now completed three months of monitoring the activities and performance of the Brimbank City Council in accordance with the Terms of Reference issued by you on 11/5/2009.

I submit my second report for your consideration.

- The first report covered the period from 11 May until 11 June 2009.
- This second report covers the period from 12 June 2009.

The background and impetus to you asking me to monitor the activities and performance of the Brimbank City Council was the release of a report by the Ombudsman Victoria titled "*Whistleblowers Protection Act 2001 Investigation into the alleged improper conduct of Councillors at Brimbank Council*".

In monitoring the Council you asked me to pay particular attention to:

- Adherence to the Code of Conduct by Councillors
- The adherence to the provisions of the Local Government Act
- Management of conflicts of interest
- Behaviour of individual Councillors
- The representative role Councillors play on other bodies
- Ensuring that Council has implemented recommendations from the Ombudsman Victoria Report

Recommendation number 1 of the Ombudsman Victoria report was that:

*'The Minister for Local Government closely monitor the activities of the Council and, should the poor practices that occurred prior to the 2008 election continue, that he consider suspending and/or dismissing the Council and appointing an administrator'.*

My monitoring and investigations over the past three months has proved that a majority of Councillors on the current Brimbank City Council have continued to exhibit in important areas some of the very same poor practices that led to the Ombudsman's initial investigation and his recommendations.

One Councillor has attempted to inappropriately intervene in relation to a parking fine related to his private business vehicle.

Four Councillors have been investigated and have been found to have acted inappropriately in relation to their responsibilities as Councillors. Two other Councillors are currently the subject of other investigations.

Three Councillors have inappropriately contacted staff of Council, contrary to the recently signed code of conduct.

One Councillor has been found at the very least to have confused his private commercial activities with his public responsibilities as a Councillor and at worst has attempted to use his elected position as a Councillor to advance his personal business interests.

Important information has been leaked from council in relation to two important confidential briefings to council.

There is also evidence that unelected persons are still trying to inappropriately influence the actions of Councillors.

For example the St Albans Branch of the ALP has attempted to influence councillors who are also members of the Labor Party to vote in a particular way on an important and very sensitive matter currently being considered by Council. It is not possible to know if this attempt to influence certain Councillors will be successful. However actions such as those by the St Albans Branch continue to undermine confidence in the governance and administration of Brimbank City Council.

This is particularly of concern because the Ombudsman Victoria Report (2008) gave very significant emphasis to this issue.

*"However I remain concerned that the influence and intervention of individuals who hold no local government office may continue".*

(Ombudsman Victoria Report 2008, page 45, clause 194).

A summary of these findings are detailed in the report.

What is most disappointing is that most of these matters have occurred post the release of the Ombudsman's report, and post discussions with Councillors in relation to what constitutes inappropriate behaviour in the light of his report. Some of the inappropriate actions by Councillors outlined in this report have also occurred post the recent public signing of a new Code of Conduct by the current group of Councillors which sets standards of behaviour for Councillors in relation to matters such as these.

It also needs to be remembered that these inappropriate and improper actions have taken place even though Councillors and the general Brimbank community are fully aware that the actions and operations of the Brimbank City Council are being closely and transparently monitored by me and that I'm required to regularly report to the government on their actions and performance and that my reports will be made public.

The Ombudsman made the following pertinent comments in relation to the 'class of 2008'.

*"Should the Minister determine that practices similar to those that occurred prior to the 2008 election are occurring, or outside influences continue to be similarly exercised, he should consider taking action. Such action may include suspending and/or dismissing the Council with a view to enabling Brimbank to be properly and effectively governed".*

(Ombudsman Victoria Report, 2008, page 9, clause 11)

Regrettably, similar practices have continued even though the current group of Councillors is being closely monitored.

I have concluded that the problems identified by the Ombudsman in his report are deep seated and are still sustained within the Brimbank City Council.

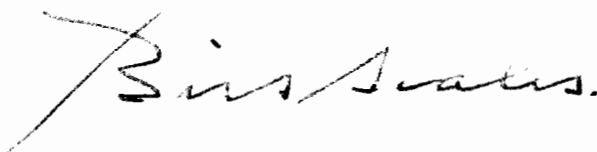
It is also important to recognise that there is wide spread concern amongst the community of Brimbank about the performance of Council and a substantial level of cynicism about the possibility of any change in the culture or the actions of this Council in the future.

Taking all these matters into account and given the systemic nature of the problems with the Brimbank City Council I have decided to recommend that you consider suspending and/or dismissing the Councillors of Brimbank City Council.

I have come to this view because current Brimbank City Councillors have had ample opportunity to read and consider all of the recommendations in the Ombudsman Victoria Report, understand its implications and what constitutes good governance and good government for the people of Brimbank and yet my monitoring and subsequent investigations have shown that current Councillors of the City of Brimbank have exhibited by their actions little if any commitment to these recommendations or the principles which lay behind them

A summary of my recommendations are detailed in the report.

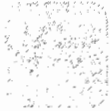
Yours sincerely



Bill Scales  
Inspector of Municipal Administration  
21 / 8 / 2009



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## Appointment of an Inspector of Municipal Administration to oversee the operations of Brimbank City Council

On 11 May 2009, the Minister for Local Government the Hon Richard Wynne appointed me, William Ivan Scales, to be an Inspector of Municipal Administration under section 223A of the Local Government Act 1989.

The Terms of Reference of my appointment were:

1. To ensure the Brimbank City Council adopts and implements the recommendations of the Ombudsman's report 'investigation into the alleged improper conduct of Councillors at Brimbank City Council' (May 2009) relating to the Council;
2. To monitor the ongoing activities and the performance of the Council;
3. To provide advice to Council on good governance and administration; and
4. To advise on any other matters that may arise as a result of the monitoring by the Inspector of Municipal Administration.

## Reporting obligations

In the event that I identify any issues that require action I am to report immediately on those issues. Otherwise I will report monthly on my monitoring of the Council until otherwise determined by the Minister.

## Overview of Brimbank

Brimbank is a very diverse and complex municipality. It is the second most populous municipality in metropolitan Melbourne with 180,000 residents. Population in Brimbank is expected to grow by around 10% over the next two decades. Its suburbs vary widely from older and more established to newer evolving estates. It also has substantial commercial and industrial areas, some of which are the largest in the state. It has an operating budget of around \$140 million and controls assets worth around \$1.2 billion. The social, environmental and economic health of Brimbank matters not only to the residents of Brimbank but to the whole of the state of Victoria.

## Overview of Council

The Council of the City of Brimbank is made up of eleven elected Councillors and they represent four Electoral Wards within the municipality.

### **Grasslands Ward**

Cr Troy Atanasovski (Mayor)  
Cr Maria Kiselis  
Cr Marion Martin

### **Harvester Ward**

Cr Geraldine Brooks  
Cr Sam David  
Cr Tran Siu (Deputy Mayor)

### **Horseshoe Bend Ward**

Cr Stuart Miller  
Cr Robert Shamon

### **Taylor's Ward**

Cr Robert Bozinovski  
Cr Margaret Giudice  
Cr Heidi Seitz

Brimbank is currently governed by a very inexperienced Council. Only three of the eleven Councillors, Cr Atanasovski, Cr David and Cr Giudice were re-elected at the 2008 Council elections. Cr Marion Martin has previously been a Councillor.

Councillors Atanasovski and David are still under investigation in relation matters raised in the Ombudsman's Report and Cr Siu is currently under investigation in relation to matters related to the electoral provisions of the Local Government Act.

The role of Brimbank CEO is a very demanding leadership and administrative role given the size of the city, the budget of the city Council and the complexity of the issues facing the municipality.

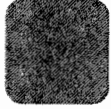
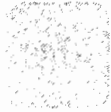
To successfully carry out this role in Brimbank the person needs outstanding leadership and administrative skills and capabilities and substantial experience in local government administration.

The current CEO was appointed to this role in May 2007. Prior to taking up this position he was the General Manager of Corporate Services at the City of Maribyrnong, a municipality adjacent to the municipality of Brimbank.





## Summary of the findings from these investigations



Inspectors from Local Government Victoria conducted these investigations and a brief summary of their findings is listed below.



### **Process**



Investigations into these matters were undertaken by a Local Government Victoria inspector at my request and relevant persons were interviewed. All available evidence and documentation has also been obtained.

1) Attempt to by a Councillor to inappropriately challenge the legitimate action of Council staff and inappropriate contact with Council Staff

### **Allegation One**

This involves an allegation that a Councillor behaved inappropriately in relation to a parking fine the Councillor received for the Councillor's business vehicle.

It was alleged that the Councillor acted inappropriately in the way he challenged the issuing of a parking fine related to the Councillor's personal business vehicle. In addition in challenging the issuing of a parking fine that not only did the Councillor approach staff contrary to Council protocols but that the Councillor sought to establish the identity of the authorised officer who issued the parking ticket contrary to Council policies.

### **Conclusion**

That a Councillor did inappropriately contact staff contrary to the protocols established by the Council and contrary to the procedures being developed in the then draft Code of Conduct with the intention of having a parking fine rescinded.

The Councillor agreed that his intention was to challenge the legitimacy of the parking fine.

In addition it is concluded that the Councillor on a number of occasions inappropriately tried to establish the identity of the parking officer who issued the parking infringement notice.

The numerous attempts to establish the identity of the parking officer could be reasonably interpreted as threatening to the parking official. The Councillor's actions were also seen to be intimidating and threatening by Council staff and seen by them to be aimed at persuading them to reveal confidential information contrary to Council policy.

There is also a potential breach of section 76E of the Act relating to the improper direction and influence of Council staff and 76D of the Act in relation to misuse of position. Obtaining legal advice on these matters should be considered.

### **Allegation Two**

The allegation was that a Councillor on Monday 22 June 2009 rang the Acting General Manager City Development regarding a proposed development project. Contrary to the new Code of Conduct which was adopted on Thursday 18 June 2009, the Councillor, when unable to speak to the General Manager first asked to speak to the Planning Manager and then the senior planner in charge of the project.

### **Conclusion**

There is sufficient evidence to conclude that the Councillor did attempt to make inappropriate contact with staff contrary to the Code of Conduct. The Councillor has admitted his attempted actions were contrary to the recently adopted Code of Conduct. Although the contact was not ultimately made it is disturbing the attempt was made only four days after the new Code was adopted. Furthermore the Councillor acknowledged that he knew he was attempting to act contrary to the Code. While the Councillor's actions could be seen to be at the lower end of the scale of offending the actions indicate that the culture of the past may prove difficult to break down.

## 2) Leaking of Confidential Information

### **Allegation One**

It was alleged that information was leaked from a confidential briefing discussion about proposed locations for the new City Offices. The briefing occurred on 6 March 2009 at the Council's strategic planning weekend in Geelong. The content of the briefing was declared confidential by the CEO and the CEO reinforced this during the briefing by pointing out to Councillors that any discussion on the sites was confidential.

The Errington Reserve St Albans site subsequently appeared in local newspapers as the preferred site.

### **Conclusion**

At this stage it is has not been possible to establish who leaked the confidential information that Errington Reserve was the preferred site for the proposed Civic Centre. What can be stated however is that there is a prima facie case that confidential information was leaked to parties outside of Council contrary to the Local Government Act 1989

### **Allegation Two**

It was alleged that confidential information was leaked from a confidential briefing given by Vic Roads staff (including Vic Roads regional Director) to the Council on Tuesday 2 June 2009 in relation to the St Albans grade separation of the train line.

### **Conclusion**

While at this stage it has not been established who leaked the information, it is apparent that confidential information was leaked from a briefing given by Vic Roads staff, to the Council on Tuesday 2 June 2009. While the information was not technically confidential in accordance with section 77 of the Local Government Act 1989 it is clear that Vic Roads staff provided the briefing on the understanding that the briefing was substantively confidential and provided the briefing to Council on that basis. It raises a significant risk issue for the Council in that organisations both government and non government will not feel confident to deal with the Council in the future if it is thought that the Council is unable to respect good governance practices relating to the consideration of sensitive information.

### 3) Conduct of Councillors

#### **Allegation One**

Allegations were made that a number of emails sent by a Councillor showed that he inappropriately confused his role as a Councillor at Brimbank City Council and his own personal business interests. Concerns were also raised in relation to the Councillor's role in relation to trade delegations that visited the Council.

#### **Conclusion**

That the Councillor has at the very least acted in such a way as to significantly confuse the Councillor's private commercial activities with the Councillor's public responsibilities as a Councillor. At worst the Councillor has attempted to use his elected position as a Councillor to advance his personal business interests.

#### **Allegation Two**

Whilst the above matter was being investigated, the same Councillor again confused his council and business activities. Without authority from the Council he took actions aimed at involving a local organisation with him in regional marketing and promotional activities to a visiting business delegation (see page 14 and 15 under Monitoring observations).

#### **Conclusion**

As with the earlier matter, the Councillor has at the very least acted in such a way as to significantly confuse the Councillor's private commercial activities with the Councillor's public responsibilities as a Councillor. At worst the Councillor has again attempted to use his elected position as a Councillor to advance his personal business interests.

#### 4) Attempt at Undue Influence on Councillors by an external organisation

##### **Allegation**

The allegation was that there had been a letter (Appendix 1) sent by the St Albans Branch of the ALP seeking to influence how Councillors vote on the location for the City Offices project. It was claimed this had the potential to “conflict” a number of Councillors when the issue came before Council for a decision.

##### **Conclusion**

The St Albans Branch of the ALP appears to have attempted to direct and influence a group of Councillors who are members of the Labor Party to vote in a particular way on the location for the City Offices currently being considered by Council. In particular it appears the St Albans Branch has attempted to bind particular Councillors to the organisation’s position rather than have them assess the particular matter on its merits, as required under the Local Government Act.

## The activities of the Brimbank City Council and Councillors from 12 June 2009

Notwithstanding the inappropriate actions of a number of individual Councillors during the period of this report, the Council and staff have worked on some important issues.

- Council and Councillors drafted a response to all the recommendations in the Ombudsman's report ;
- Council convened a Special Public Council meeting to debate and consider ratifying their responses to the recommendations in the Ombudsman's report. The documents ratified by Council at this public meeting included actions required by the Council to appropriately respond to the recommendations from the Ombudsman's report and a new Code of Conduct;
- Councillors continued to play their respective roles in the ordinary business of the City of Brimbank;
- Council meetings have been generally conducted in a business like fashion.

## Community Concerns and Issues

There is wide spread concern amongst the community of Brimbank about the performance of Council and a substantial level of cynicism about the possibility of any change in the culture or actions of the Council in the future.

At many of the meetings and discussions I've had with members of the Brimbank community since my appointment on 11 May 2009, themes constantly emerge of dissatisfaction with the performance of the Council and a resulting sense of hopelessness that any change in the culture and actions of the Brimbank Council is possible.

These themes are all thoughtfully articulated in the following letter sent to me by a concerned resident of Brimbank.

*Mr. Bill Scales  
Inspector of Government Administration  
c/- Brimbank Council  
Sunshine Municipal Office  
Alexandra Avenue  
Sunshine. 3020.*

*13 July, 2009*

*Dear Bill,*

*I am writing to express my dissatisfaction with the conduct of the majority of Brimbank Councillors in the past and to convey my complete lack of confidence of any substantive change in the future.*

*As a person born in Sunshine and resident for many years, I have had a number of issues with the conduct of the Council in the past. Except for the period when the municipality was governed by an administrator, the Council has lacked vision, initiative and any sense of wider priorities. Many opportunities to enhance the welfare and well-being of its residents have been missed due to the undue influence of Councillors. I would be happy to talk to you at length in regard in this regard but mention only two as an example; lack of a plan to buy the St George Soccer Club land to add to the meagre open space of Brimbank and the poor record of applying for grants for community facilities and programs. It must be remembered it is not only the misuse of public monies that is at issue but the number of projects that do not happen.*

*The culture that has evolved in Council matters will not be altered, essentially because Brimbank Council has been for too long conducted under a regime that has discounted good governance and democratic process. It is naïve to think that some-one such as yourself can make any difference to such an entrenched culture. The speed with which corrupt practices were instituted after the departure of the previous administrator is testament to this. Further, the fact that this was not the first time that an administrator has been appointed to Sunshine should provide ample indication of the depth of the problem.*

*In short, the continued presence of Councillors in Brimbank makes me feel hopeless that any change will occur and I ask you in the interest of democratic process and the best interests of the people of Brimbank to recommend a permanent administrator.*

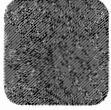
*Yours faithfully*

*(Name and address provided)*

The thoughts and views expressed in this letter are commonplace throughout the Brimbank Municipality.



## Monitor's observations



I have been closely monitoring the actions and performance of the Councillors and staff of the Brimbank City Council for three months. My monitoring is very transparent and obvious for all to see. I have attended most of the formal meetings of council and its committees and attended a number of community consultation forums. I have spoken to residents during and after meetings, one on one as requested and by phone. I have made myself available to Councillors so that they can meet with me privately if necessary to discuss any matter related to the administration of the City or the Ombudsman's report and a number of Councillor's have availed themselves of this opportunity. I have regularly met with the CEO to monitor the implementation of the Ombudsman's report and I have scrutinised a number of the Council's policies and practices.

I make these comments because my monitoring has been extensive, some might say exhaustive and intrusive.

During this time I have come to understand in significant detail the inner workings of the Brimbank City Council so that in making any recommendations I can go beyond the specifics of personal performances, investigations, and even the findings of the Ombudsman's Report.

It seems important that in making any recommendations I answer two critical questions and they are;

First, has the Brimbank City Council implemented all the recommendations of the Ombudsman's Report and is the Council committed to the good governance principles implicit in this report?

Second, taking into account all that has happened in Brimbank in the past, and even notwithstanding that some Councillors elected in 2008 are under investigation and have been found to have acted inappropriately, do I believe that the current group of councillors have learnt from all this and will in the future provide good government and governance to the people of Brimbank?

Regretfully, I have come to the conclusion that while the recommendations of the Ombudsman's report have, or are in the process of being implemented, members of the current Brimbank City Council have shown by their actions that they are not committed to the principles implicit in that report and therefore they will not and cannot provide good government to the people of Brimbank.



Unfortunately some of the current group of Brimbank Councillors have not learnt from the matters adversely affecting Brimbank over the past few years or the findings of the Ombudsman's Report.

Of the group of 11 Councillors elected in 2008 a total of six Councillors have been or are currently being investigated for inappropriate behaviour.

Four have been investigated by Inspectors from Local Government Victoria on instruction from me and have been found to have acted inappropriately during this term of office. Two additional Councillors are currently under investigation.

For example one Councillor has freely indicated to me a belief that had the issues in Brimbank not been made public in the Victorian Parliament, then everything in Brimbank would have been 'OK'.

Another Councillor when found to have inappropriately contacted a junior council staff member and encouraged the staff member to act in a particular way in relation to a matter of special interest to the Councillor has stated that notwithstanding the fact that in accordance with the Ombudsman's recommendations a Code of Conduct has been signed by all Councillors including the Council in question prohibiting actions such as this, and notwithstanding the fact that such action is contrary to the Local Government Act, the particular Councillor believes that the standard of probity required of Brimbank Councillors and outlined in the Ombudsman's report and in the Local Government Act in this regard is far too high.

This needs to be seen in the context that there are now three current Brimbank Councillors who I have found to have had inappropriate contact with council staff, and their actions have all been post the signing by them of a Code of Conduct prohibiting such contact.

Another Councillor when confronted with the reality that he had acted inappropriately in that he had confused his business and council activities could not understand why his actions should be regarded as inappropriate.

The Councillor had without any authority from Brimbank City Council contacted an official from a local organisation encouraging it to get involved with him in regional marketing and promotional activities to a visiting business delegation. In addition to making phone contact on this issue the Councillor drafted a letter that he was suggesting be sent by the local organisation to the business delegation. The draft had him co-signing the letter with the CEO of the local organisation and it held him out to be an authorised representative of the Brimbank City Council even though no authorisation had been given or even implied nor had the matter been officially discussed by Council.

This activity was not authorised by Brimbank City Council, would have been in direct conflict with the Councillors own published private business activities and clearly created confusion within the local organisation contacted as to Brimbank City Council's strategy in relation to promoting business activity in the West of Melbourne.

This activity by the Councillor was terminated only after intervention by Brimbank's CEO, after consultation with me.

Importantly this Councillor when thoroughly questioned by me about this matter could not articulate, conceptualise nor understand the important governance, legal and administrative principles that lie behind the laws and rules prohibiting elected officials from 'blending' their private and public responsibilities.

I have also observed in some of the very recent decisions of Council early indications that factional alliances are beginning to be relevant in some Council decisions. Because all actions and voting patterns of Councillors are now being closely monitored it is not as easy for factional agreements to be blatantly applied. However at the most recent Council meeting in July there was some indication that factional alliances are again being formed and they are being used in deciding on certain important matters before the Council.

That factional alliances are again beginning to form was confirmed to me in a private discussion on the matter with one of the current Brimbank Councillors.

It is also becoming clear that the system of transparently recording voting patterns is being 'manipulated' by Councillors in an attempt to disguise voting on factional lines.

Such actions are contrary to the intent of the Councillors Oath of Office required by section 63 of the Local Government Act 1989 (the Act) – *"I will undertake the duties of the office .... to the best of my skill and judgement"*.

They are also contrary to the primary principle of Councillor conduct in section 76B of the Act – “..... a Councillor must – (a) act with integrity and (b) impartially exercise his or her responsibilities in the interests of the local government; and ....”

Predetermined voting arrangements also call into serious question whether councillors are making decisions at the council table with an open mind. The common law rules of natural justice or procedural fairness require councillors to approach their administrative decision making with an open mind to ensure that they act fairly and impartially, in good faith, listening to both sides of an argument that is put to them for consideration.

The Brimbank CEO has confirmed that the current Brimbank Councillors were fully briefed on taking office about this important principle.

The Local Government Victoria publication ‘Ensuring Unbiased Democratic Council Decision Making’ made available for all Victorian councillors including the current Brimbank Councillors provides clear guidance on the importance of this common law rule and the risks associated with councillors prejudging matters being considered by them.

It is clear that there has been significant effort from many parties to help the current Councillor’s of the Brimbank City Council understand their roles and responsibilities including providing detailed information on what constitutes appropriate behaviour in this regard.

The action of the St Albans Branch of the ALP in attempting to influence the decisions of certain Councillors is most instructive. Notwithstanding that most Councillors who are members of the Australian Labor Party are not officially endorsed Labor Councillors, the St Albans Branch still saw it fit and appropriate to write to these particular Council Members and in a very direct manner bring to their attention the views of the Branch about an important and sensitive matter currently being considered by the Council. To be clear, there is nothing inappropriate in any organisation writing to any or all Councillors bringing its views to a Councillors attention. However by making explicit that the correspondence was only for the attention of Councillors belonging to the ALP and by being explicit about the feelings of a particular branch of that same political party, then only one conclusion can be drawn from this action.

That conclusion is that this organisation was attempting to inappropriately influence the decisions of these Councillors, solely because they were members of the ALP.

It is not possible for the citizens' of Brimbank to know with any certainty if any or all of these particular Councillors were influenced by this letter because of their membership of the ALP. Therefore it is not possible for them to know if these Councillors will act appropriately or inappropriately when it comes to a decision on this matter.

And this is the essence of the problem.

Because it is not possible to know, it is also not possible to be sure that all Councillors will transparently act in the interests of all the citizens of Brimbank and in accordance with Section 76 B of the Local Government Act in relation to this important community issue.

The Ombudsman's report highlighted a culture in Brimbank where individuals and organisations external to Council repeatedly acted inappropriately to influence the decisions of Council and saw no problem in doing so.

This attempt by the St Albans Branch to influence the decisions of certain Councillors is one example of the continuation of this destructive culture in Brimbank.

This culture and actions such as those of the St Albans Branch continues to undermine confidence in the governance and administration of Brimbank City Council

It is also important when considering the behaviour and performance of Councillors and Officials of Brimbank City Council to provide you with a brief commentary on the comments made to me by many Brimbank residents about government and governance in their City. The letter on page 12 which was sent to me by a resident of Brimbank is a very articulate characterisation of the many thoughts provided to me by other Brimbank residents. Without exception, like the author of the letter above, the residents I have spoken to over the past three months have indicated a serious lack of confidence in the current Council and little expectation that good local government will be provided to them in the future.

In addition the general administration of Brimbank in many important areas requires substantial improvement and reform. In my view the current group of Councillors is not capable of leading this improvement and reform.

The commentary above is not meant to be an exhaustive list or description of the matters I have observed and considered over the past three months. It is meant to provide a more practical and subjective flavour to what by necessity must be the more objective and precise reporting on the matters investigated by Inspectors of Local Government Victoria at my request.

It is also provided as an indication of the complexity of the monitoring task, and regrettably its un-sustainability. I do not believe that the role of Monitor is sustainable long term. This is because many of the current Brimbank Councillors have shown themselves incapable or unprepared to accept the findings of the Ombudsman's Report. Some are beginning to attempt to argue with me about the efficacy and appropriateness of these recommendations and are seeking my ongoing guidance and rule making in relation to these recommendations. Some of this advice is being genuinely sought to assist some Councillors in the conduct of their duties. But my assessment is that other Councillors are clearly doing this to attempt to transfer responsibility for their current and future inappropriate actions from themselves, to me.

In addition my monitoring role has recently become more of a mentoring role to some Councillors and to the CEO. However this mentoring role is of itself beginning to quickly morph into a quasi Administrator role as requests for advice about how to behave have more recently become requests for advice on what to do.

This was clearly not the intention of the government when I was appointed to this role.



## Recommendations



Taking all these matters into account I have decided to recommend that you consider suspending and/or dismissing the Councillors of Brimbank City Council.



I have come to this view because the current Council has had ample opportunity to read and consider all of the recommendations in the Ombudsman Victoria Report, understand its implications and what constitutes good governance and good government.



However a number of Councillors have shown by their actions little if any commitment to meeting these basic requirements or to understanding why they are necessary.



In addition, at least one organisation in Brimbank, the St Albans Branch of the ALP is still trying to apply undue influence on certain Councillors, even though the inappropriateness of this was specifically highlighted in the Ombudsman's report.

I acknowledge that recommending the suspension and dismissal of the Council of the Brimbank City Council is a very serious matter.

I have also considered whether it would be more appropriate to recommend that certain Councillors be referred to a Councillor Conduct Panel for consideration.

I have decided against this option because the matters already considered by me relate to a significant number of the eleven Councillors, and because matters such as those detailed in this report were also matters that were specifically raised in the Ombudsman's report.

An additional reason for discounting this option is because I had discussed a number of these matters with Councillors collectively and privately before these actions by Councillors occurred.

And finally a long and drawn out process of consideration by a Councillor Conduct Panel of a relatively large number of Brimbank Councillors would in my view significantly undermine the ability of the Council to provide good government to the people of Brimbank while these considerations proceeded.

I have concluded that the problems identified by the Ombudsman in his report are deep seated and are still sustained within the Brimbank City Council.

Taking all these matters as a whole and given the systemic nature of the problems with the Brimbank City Council I believe that suspension and/or dismissal of the Brimbank City Council is the most appropriate action for you to consider.

I believe that a break in electoral representation at the Local Government level in Brimbank will send a number of clear and unequivocal messages.

It will send a clear message to those wishing to become Brimbank Councillors in the future that providing good government and governance to the people of Brimbank demands that they must fully understand the requirements of a Councillor under the Local Government Act and the accepted contemporary principles of good governance practices before they seek election to Council.

It will clearly indicate to those wishing to encourage others to nominate for the important office of Councillor that they need to ensure that their nominee is fully qualified for this demanding role including ensuring that any nominee fully understands their obligations to all the people of Brimbank.

It will also send a very clear message to those wishing to inappropriately influence Councillors in the conduct of their duties that placing undue influence on Councillors will not be tolerated in Brimbank or anywhere in Victoria and is ultimately self defeating.

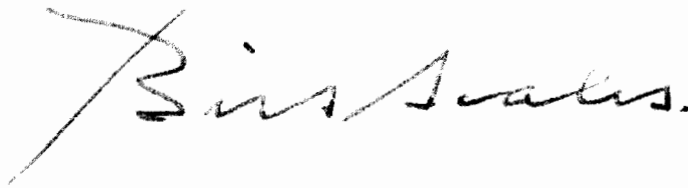
And finally it will clearly indicate to the people of Brimbank that the government is determined to take action to ensure that their community is properly and effectively governed.

The suspension and/or dismissal of the Council would give the people of Brimbank the opportunity to experience sound administration of their municipality.

It will allow some time to elapse to ensure that power relationships and alliances that are, or have the potential to undermine good government and governance and therefore confidence in the administration of the Brimbank City Council are dissipated.

It will allow sufficient time for administrators to review and if necessary revise and reform all of Brimbank's policies and practices.

And importantly it would send a clear message to those interested in seeking political office in Brimbank in the future that poor governance and administration in Brimbank will not be tolerated.

A handwritten signature in black ink that reads "Bill Scales". The signature is written in a cursive style with a large, sweeping initial 'B'.

Bill Scales  
Inspector of Municipal Administration  
21 / 8 / 2009



## Appendix 1

*Friday, 29 May 2009*

*Brimbank City Council  
Cr  
PO Box 70  
Sunshine 3020*

*Dear Cr*

***Re: Errington Reserve***

*At a recent meeting of the St Albans Branch of the Australian Labor Party, a lengthy discussion took place regarding the discussion to build Municipal Offices on the Errington Reserve site.*

*We are asking that each elected ALP councillors currently representing Brimbank City Council be advised of our discussion.*

*It was discussed that Brimbank City Council should respect and acknowledge the history, heritage and tradition of Errington Reserve. Errington Reserve was given to Brimbank Council over 99 years ago by Mr Errington for the purpose of recreation use. We hope that when it is time to vote you will vote against building Municipal Offices on this Treasured site.*

*We await your considered response on this issue.*

*Thank you for your assistance.*

*Yours sincerely,*

*Secretary*