

Legislation Amendment (Political Donations) Bill 2008

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

This Bill is cognate with the *Election Funding Amendment (Political Donations and Expenditure) Bill 2008*.

Overview of Bill

The object of this Bill is to amend the *Local Government Act 1993* and the *Environmental Planning and Assessment Act 1979* in relation to political donations.

The Bill:

- (a) requires the general manager of a council to record which local councillors voted for, and which local councillors voted against, each planning decision of the council (and makes that record publicly available), and
- (b) enables matters relating to political donations in connection with local councillors to be referred to the Pecuniary Interest and Disciplinary Tribunal, and
- (c) when any relevant planning application is made to the Planning Minister, Department or local council, requires the applicant (or any person making a public submission opposing or supporting the application) to disclose political donations and gifts made within 2 years before the application or submission is made, and
- (d) makes other miscellaneous amendments.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the amendments to the *Local Government Act 1993* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendment to the *Environmental Planning and Assessment Act 1979* set out in Schedule 2.

Clause 5 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendment of Local Government Act 1993

Schedule 1 [2] inserts proposed Part 8A into Chapter 10 of the *Local Government Act 1993*. Proposed Part 8A contains provisions that require the general manager of a council to keep a register of current declarations of disclosed political donations to councillors (proposed section 328A) and provisions that require suspected breaches of the code of conduct relating to donations to be reported to the Director-General by the general manager, and enables the direct referral of the matter to the Pecuniary Interest and Disciplinary Tribunal for hearing and any disciplinary action against the councillor concerned (proposed section 328B).

Schedule 1 [3] inserts proposed section 375A into the Act to require the general manager of a local council to maintain a register that records which councillors voted for, and which councillors voted against, each planning decision made at a meeting of councillors.

Schedule 1 [1] provides that registers kept under proposed sections 328A and 375A are to be made available, free of charge, for public inspection.

Schedule 2 Amendment of Environmental Planning and Assessment Act 1979

Schedule 2 inserts proposed section 147 into the *Environmental Planning and Assessment Act 1979* to require, in connection with a relevant planning application or public submission objecting to or supporting the application, the disclosure of political donations and gifts made by the applicant or persons with a financial interest in the application (or by the person making the submission or any associate of that person) to the Minister for Planning or a local council (or council staff) within 2 years of the making of the application or submission.

The proposed section declares that its object is to minimise any perception of undue influence, but makes it clear that political donations or gifts are not relevant to the determination of the planning application and are not grounds for challenging the decision on a planning application.

The proposed section will apply to a range of planning applications to the Minister or to a council (including applications to the Minister for approval of Part 3A projects, applications to a council for Part 4 development consent and formal requests to the Minister to make environmental planning instruments).

The information about political donations that is required to be disclosed in connection with a planning application or submission will be the same information that will be required to be disclosed every 6 months to the Election Funding Authority (and posted on the website of the Authority) under the *Election Funding Act 1981* (as proposed to be amended by the *Election Funding Amendment (Political Donations and Expenditure) Bill 2008*).

The information disclosed will be required to be posted on the website of the Department of Planning (in connection with planning applications or submissions to the Minister) and on the website of the council (in connection with other planning applications or submissions).