

**Submission  
No 9**

**THE FINAL REPORT OF THE EXPERT PANEL –  
POLITICAL DONATIONS AND THE GOVERNMENT’S  
RESPONSE**

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**LGNSW Submission to the Joint Standing  
Committee on Electoral Matters in relation to the  
Inquiry into the Final Report of the Expert Panel  
– Political Donations and the Government’s  
Response**

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## Introduction

Local Government NSW (LGNSW) is the peak body for NSW Local Government, representing all 152 NSW general-purpose councils and associate members, including 12 special-purpose county councils, and the NSW Aboriginal Land Council.

The mission of Local Government NSW is to be a credible, professional organisation representing Local Government and facilitating the development of an effective community-based system of Local Government in NSW. LGNSW represents the views of its members to NSW and Australian Governments; provides industrial relations and specialist services to councils; and promotes NSW Local Government to the community.

LGNSW is pleased to have an opportunity to make a formal submission to the Joint Standing Committee on Electoral Matters in relation to the inquiry into political donations.

## Local Government Context

Currently, political donations made to Local Government are governed through three mechanisms: the *Election Funding, Expenditure and Disclosures Act 1981* (the EFED Act), the *Local Government Act 1993*, and the Model Code of Conduct for Local Councils in NSW (NSW Division of Local Government, Department of Premier and Cabinet, 2012).

As outlined in the Independent Panel of Experts' report, the EFED Act applies to State and Local Government in NSW, and contains requirements concerning public funding, political donations disclosure, and prohibited donors. The EFED Act also caps the amount of political donations and electoral communication expenditure, for State Government election campaigns only. Local Government is specifically excluded from these requirements.

Part 8A of the *Local Government Act 1993* requires General Managers of Councils to keep a register of political donations disclosures made under the EFED Act.

General Managers also have a duty to report to the Director-General of the Office of Local Government if they reasonably suspect that a councillor has not complied with the provisions of the Code of Conduct relating to the disclosure of political donations or the manner of dealing with any perceived conflict of interest in relation to political donations.

The Model Code of Conduct for Local Councils in NSW (NSW Division of Local Government, Department of Premier and Cabinet, 2012) notes that matters involving political or campaign donors may give rise to a non-pecuniary conflict of interests. Where a councillor has received or knowingly benefitted from a reportable political donation made by a major political donor (ie one who has donated  $\geq$ \$1000) in the previous four years, and where the major political donor has a matter before council, then the councillor must declare a non-pecuniary conflict of interest, disclose the nature of the interest and manage the conflict of interest in accordance with the requirements of the code. The councillor is not prevented from participating in a decision to delegate council's decision-making role to council staff or appointing another person or body to make the decision.

The Code of Conduct also notes that political donations *below* \$1000 to a party by which a councillor is endorsed may still give rise to a non-pecuniary conflict of interests (and the councillor should take appropriate action to manage them).

## **Significance of Political Donations for Local Government as a Sector**

The management of political finance in NSW has the potential to result in actual or perceived corruption, which can affect the strength of the democratic system as well as the level of public confidence in the political process.

The sensitivity of political donations and the potential for significant reputational damage to the Local Government sector is clear.

Recent corruption investigations and media reports into alleged corruption for all three tiers of government across Australia highlight the ongoing need for the active and transparent management of political finance.

The effect of these media reports and investigations, whether substantiated or not, is to undermine public confidence in the political systems of Australia at all levels.

The opportunity for corruption to occur at the Local Government level is particularly direct, given the role that Councils play in approving developments.

The Local Government sector within NSW is united in its desire to operate in a manner that is above reproach, and that ensures that it retains the confidence of the community of NSW in its locally elected officials.

## **Policy Position of Local Government**

Given the context and significance of political donations for the Local Government sector, LGNSW supports the recommendations of the Independent Panel of Experts as accepted in principle by the NSW Government.

Support for the tightened reporting of political donations has been raised by member councils at the LGNSW Annual Conference in the past. The Board of LGNSW, in considering the Independent Panel of Experts' report, felt strongly that the NSW Electoral Commission needs the funding, capacity and political support to consistently administer and properly enforce the EFED Act. Local Government is committed to ensuring transparency and integrity in the electoral process, and also supports more real-time reporting of donations to increase the level of transparency.

The next set of Local Government elections is scheduled for September 2016. LGNSW understands that the Joint Standing Committee is bringing forward its report on the political donations issue in advance of the broader report into the 2015 State Government election. LGNSW strongly supports the early consideration of the political donations issue, and requests that the changes arising from the inquiry be implemented with urgency, and in any event in time so that they apply to the September 2016 Local Government elections.

## **References**

NSW Division of Local Government, Department of Premier and Cabinet (2012). *The Model Code of Conduct for Local Councils in NSW*.