Submission No 5

ANNUAL AMOUNT DISTRIBUTED TO MINOR PARTIES FROM THE ADMINISTRATION FUND

Organisation: Australian Labor Party (NSW Branch)

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Peter Primrose MLC
Chair
Joint Standing Committee on Electoral Matters
Parliament House
SYDNEY NSW 2000

Via:By Submission

Dear Chair

Inquiry into the annual amount distributed to minor parties from the administration fund

Administrative funding reimburses eligible parties and MPs for quarterly administrative and operating expenses. Eligible parties and MPs can claim payments from the NSW Electoral Commission.

The operational expenses involved in running a political party are significant, especially to ensure compliance with legislative obligations, cyber security needs and the positive duty to protect the health and safety of Party members.

NSW Labor recognises these costs may be disproportionately high for minor parties and independents.

At the same time, any change or increase to the level of Administrative Funding for minor parties and independents should be tied to a clear demonstration of proper compliance with all legal and regulatory obligations and reflect the findings of the Broderick Review, particularly in relation to safe and respectful workplaces.

To that end, NSW Labor re-affirms its support for the following recommendations arising from the Independent Commission Against Corruption's Final Report into Operation Aero recommended the following:

"Recommendation 2

"That the NSW Government, in consultation with affected parties, initiates an amendment to the Electoral Funding Act 2018 so that payments from the Administration Fund are contingent on the achievement of acceptable standards of party governance and internal control. A working group should be established to determine the relevant governance and control standards, which could relate to:

- *accounting for, receipting and banking donations*
- *the organisation of fundraising events*
- *identifying prohibited donors and donations that exceed statutory caps*
- *the roles and responsibilities of staff, including volunteers*
- *risk management and internal audit*
- *whistleblowing and complaint-handling*
- *management of gifts and conflicts of interest*
- *compliance and ethical obligations of senior party officials.*
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"Given the different governance arrangements in different political parties, and as a matter of good practice, it is reasonable to assume that multiple political parties would be either members of, or invited to, represent their views to the working group. As the independent regulator, the NSWEC would ultimately determine if the parties had met the governance and control standards agreed on by the working group and adopted by government. The intention is for standards to be clearly agreed on, according to the points (and principles) set out in the Commission's recommendation 3. The working group should also consider whether political parties should be able to request a review, before the NSW Civil and Administrative Tribunal, of the consequences of a decision taken by the NSWEC (for example, withholding administrative funding) as opposed to the decision itself.

Recommendation 3

"That the newly established working group should seek input from the NSWEC to ensure the efficient administration and implementation of standards. That is, consideration should be given to:

applicable minimum standards

whether the standards should take the form of model rules, which an individual party would be free to modify only if the NSWEC agreed that the modified rule did not adversely affect the party's governance. This would prevent small, or new, parties from incurring the expense of drafting rules from scratch

the limits on the type of standards that could be required. That is, in order to avoid topics and areas that the state has no legitimate interest in regulating (for example, the way a political party formulates its policies)

the desirability, or extent to which, the standards take the form of specific rules, so as to meet the reasonable satisfaction of the NSWEC

the need for a proportionate approach that does not unreasonably penalise small, new political parties or independents

providing political parties with reasonable opportunities to address shortcomings in their governance and internal control frameworks before administration funding is withheld.

Recommendation 4

"That the NSW Government amends the Electoral Funding Act 2018 to provide the NSWEC with the necessary powers to assess, audit and enforce non-compliance with standards of party governance and internal control.

Recommendation 5

"That the NSW Government amends the Electoral Funding Act 2018 to require the NSWEC to publish findings regarding political parties' adherence to established governance and controls standards."

Operation Aero also recommended punishment of political participants for failing to adhere to established governance standards, amendments to the Electoral Funding Act to require office holders to report reasonably suspected contraventions of the act, powers for the New South Wales Electoral Commission to publish results of compliance, audits and investigations.

In light of these recommendations, NSW Labor affirms that administrative funding should be contingent upon a political participant's ability to meet minimum standards in the following areas:

- **Governance and disclosure**
- **Information technology and cyber security**
- **Workplace health and safety**, including the prevention of bullying and harassment

Any increase in administrative funding for political parties should be extended, proportionately, to Independent Members and minor parties. The compliance burden associated with administrative funding presents unique challenges for Independents and minor parties, who rely on these resources to meet their obligations. NSW Labor endorses the Independent Commission Against Corruption's view that there is a "need for a proportionate approach that does not unreasonably penalise small, new political parties or independents."

We acknowledge that Independents may face significant hurdles in meeting administrative funding requirements. Accordingly, NSW Labor recommends that the NSW Electoral Commission adopt a non-punitive approach in cases of minor breaches or administrative inconsistencies. The Commission should consider whether reasonable efforts have been made to comply with the spirit and intent of the Act, and whether any breaches were inadvertent.

NSW Labor recommends:

- **An increase in administrative funding tied to governance, information technology and WHS requirements;**
- **A clear nexus between appropriate conduct by political participants and the provision of administrative funding; and**
- **That the NSW Electoral Commission adopt a non-punitive, proportionate approach to compliance by Independents and minor parties.**

Kind Regards

Australian Labor Party (NSW Branch)