

BUDGET ESTIMATES 2023-2024 Portfolio Committee No. 1 – Premier and Finance

Questions taken on notice – NSW Electoral Commissioner

Responsible person	Transcript page	Question	Answer from NSW Electoral Commissioner
John Schmidt	75-76	<p>The Hon. ROBERT BORSAK: Mr Schmidt, in relation to donations, can you confirm if the Electoral Commission considers a tithe from an elected member a political donation but exempt from the New South Wales donation cap?</p> <p>JOHN SCHMIDT: Sorry, Mr Borsak, I missed the—</p> <p>The Hon. ROBERT BORSAK: A tithe. T-I-T-H-E.</p> <p>JOHN SCHMIDT: Sorry, yes.</p> <p>The Hon. ROBERT BORSAK: Is it exempt from the New South Wales donation caps?</p> <p>JOHN SCHMIDT: I might pass to Rachel. I don't know we've considered a tithe situation.</p> <p>RACHEL McCALLUM: What do you mean by a tithe, Mr Borsak?</p> <p>The Hon. ROBERT BORSAK: Well, there are parties in this—and The Greens, for example, are one. I think other parties do the same, where amounts are deducted from the members' pay before they get it and it's put straight back into the party.</p>	<p>Payments of party levies by NSW elected members for state or local government election purposes are political donations under the <i>Electoral Funding Act 2018</i> but may be disregarded for the purposes of the donation caps.</p> <p>The payment of a party levy for the purpose of a federal election campaign does not need to be disclosed as a political donation to the NSW Electoral Commission.</p>

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		<p>RACHEL McCALLUM: I might take that on notice, Mr Borsak.</p> <p>The Hon. ROBERT BORSAK: So you don't know whether it's a political donation?</p> <p>RACHEL McCALLUM: No.</p>	
John Schmidt	76	<p>The Hon. ROBERT BORSAK: According to the website of Indus Engineering Pty Ltd, the company offers services to many aspects of the building, construction and planning industry. Additionally, the website lists Mr Omar Faruqi as one of its directors. Is the commissioner aware of who the spouse of Mr Faruqi is?</p> <p>JOHN SCHMIDT: We would have to take on notice any questions about specific individuals or companies. It's a well-known matter for this Committee and the Joint Standing Committee on Electoral Matters that the commission—I'm here as the commissioner; of course, the three-member commission deals with the area that you're delving into now—is subject to very strict secrecy provisions. In fact, they have only recently been amended to introduce a limited public interest test. One, I'm not going say whether I do or don't know whether an investigation has been looked at or an</p>	<p>It would not be appropriate to comment on whether a particular person or company may, or may not be, a property developer on the basis they may be involved in the building industry. The definition of “property developer” in the <i>Electoral Funding Act 2018</i> has a number of distinct elements. If an allegation is made that the requirements of the Electoral Funding Act have been contravened, the Electoral Commission would review that allegation in accordance with its published <i>Compliance and Enforcement Policy</i>.</p> <p>The Electoral Funding Act does not prohibit a donation being made by a property developer if it is made and received for a party's federal election campaign.</p>

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		<p>allegation has been received. But if you wish to raise something with us, we will take it on notice. Whether, in fact, we can then say anything about that will depend on the commission's view about the operation of the legislation.</p>	
John Schmidt	77-78	<p>JOHN SCHMIDT: Thank you, Chair. I was just trying to follow the sequence of the flow of the money, if I can put it that way.</p> <p>RACHEL McCALLUM: If it is a donation to the NSW Greens, it would be disclosed on our website.</p> <p>The Hon. ROBERT BORSAK: That's right. Even if it's a Federal tithe paid to the NSW Greens, it still should be disclosed on the New South Wales register, shouldn't it? Even though it's exempt?</p> <p>RACHEL McCALLUM: If it is a donation, it would be disclosed.</p> <p>The Hon. ROBERT BORSAK: You said that a tithe was a donation, but it was exempt from the cap.</p> <p>JOHN SCHMIDT: Can we take this on notice and we will come back with a—</p> <p>RACHEL McCALLUM: Yes.</p> <p>The Hon. ROBERT BORSAK: Basically you are saying "Yes", but the reality is you are not really</p>	<p>Payments of party levies for state or local government election purposes are political donations under the <i>Electoral Funding Act 2018</i> and are disclosable.</p> <p>If a party levy is paid for federal election purposes the disclosure and prohibited donor requirements of the <i>Electoral Funding Act 2018</i> do not apply. Such payments cannot be used for the purpose of NSW state or local government elections.</p>

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		<p>sure about what the answer to that is in terms of disclosure, because from my review of it, no disclosure has been made at all in relation to what Mehreen Faruqi is donating to the NSW Greens from her Federal Senate requirements in accordance with the New South Wales Greens constitution.</p> <p>JOHN SCHMIDT: We will take the question on notice.</p>	
John Schmidt	83-84	<p>The Hon. SARAH MITCHELL: My questions are to Mr Schmidt as the Electoral Commissioner. Do you have any data in relation to the March election in terms of people who were issued with notices that they didn't vote, but who in fact have then subsequently put in a rebuttal of that? Anecdotally there seems to have been quite a few people who have said that they did go and vote but were told that they didn't. How often do you collect that data? Is that publicly available? Is it something you can provide to the Committee?</p> <p>JOHN SCHMIDT: It's an interesting question and one which has been canvassed at the Joint Standing Committee on Electoral Matters, in their inquiry into the previous State election. In fact, one of the recommendations was that we report on that data. There is a challenge. Anyway, we are in the process now of sending out notices to people,</p>	<p>When NSW Electoral Commission records indicate that an elector appears to have failed to vote at an election, they are issued with an 'apparent failure to vote' notice. The elector is offered four options to respond to the initial notice. Electors may respond online or in writing by making a declaration.</p> <p>All individual responses are reviewed and checked. If an elector's response that they did vote is accepted, their apparent failure to vote notice is withdrawn and no further action is taken by the NSW Electoral Commission.</p> <p>The total number of apparent failure to vote notices for each election is included in post-election reports tabled in the NSW Parliament and published on the NSW Electoral Commission's website. The Electoral Commissioner's report on the 2023 State election was tabled on Monday 13 November 2023.</p>

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		<p>which is why it's come to your attention, about whether our records—they could receive an apparent failure to vote notice. We're saying, "It appears from our records you didn't vote", and that invites them to come back with an explanation and there are other options. A number of people come back and tell us they did vote. We have no way, necessarily, of confirming that. We take it on face; they are signing what is in effect a legal document, an assertion. We ask them to identify the polling place they went to and we will have figures in due course for this election, which will show how many people were excused, their notice was withdrawn because of that. There are occasions where people are incorrectly marked off on the roll. That can happen. There are occasions when we have electronic mark-off at prepoll. When that happens we have backup arrangements; depending on whether people have automatic access to the paper roll or whatever, they may keep a record of the people that they've issued votes for. The reconciliation of that may sometimes have a flaw. But there is no accurate figure by the very nature of the interactions which happen between us and the voters over a period of time. But we can give you figures for the number of notices which are issued and the number of people who assert that they did in fact vote.</p>	<p>This report noted that 481,290 apparent failure to vote notices were issued to electors. As the apparent failure to vote process for the 2023 State election is still underway, it is not yet possible to determine the number of electors whose claims that they did vote have been accepted.</p> <p>For the 2019 State election, the corresponding data was:</p> <ul style="list-style-type: none"> • 384,879 apparent failure to vote notices were issued • 28,879 of recipients declared in response that they did vote, and their notices were withdrawn

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		<p>The Hon. SARAH MITCHELL: When would that be made available to the Committee, or to the public, whichever way you do it?</p> <p>JOHN SCHMIDT: It will be some months, because the process is ongoing. We can give you figures from the previous—if it would assist in your deliberations, I will take it on notice and give you the figures for that process from the last State general election.</p>	