

Tabled G. Piper
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Submission to the Inquiry into Electoral and Political Funding

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I would like to thank the Committee for the opportunity to address it on this important issue.

I cannot claim to have the breadth of knowledge which others who have made submissions might have. My experience has been predominantly through local government having continuously been on Lake Macquarie City Council since 1991 and of course most recently through my election to the Legislative Assembly in March last year. During my time on council I have seen election campaigns change quite a bit. Perhaps they have become more sophisticated, but they have certainly become more expensive. It would be difficult to run an effective campaign without reasonable access to funds.

While I support greater public funding of elections I do not necessarily support a ban on contributions. I believe that support for a candidate is something many people would wish to offer as a legitimate part of the political process. This support may come from friends, family, people one may have campaigned on issues with or from others who share or believe in one's principles.

While there is strong argument that the political donations system should be reformed I do not believe that we should lightly perpetuate any belief that all donations are tainted and seek to "buy" influence. Nor should we be populist by pandering to a perception that politicians can be bought by political donations. As in any walk of life there will be those examples. My observation over 16 years in Local Government and now as a State MP for close on a year, I don't believe such a generalisation to be correct.

That said, while I believe corruption is the exception to the rule I do believe that we should take all reasonable steps to make corrupt conduct as difficult as possible. Within the area of political campaign funding, the very need for funds drives the possibility of significant and at least in perception, compromising donations.

First step to eliminating this is a cap on the maximum expenditure allowed per candidate. Remove the need for "big" money.

Second step – limit the amount that candidates need to raise by providing partial public funding.

Third step – restrict the amount which can be contributed to a candidate by any one entity (person, corporation or other organisation) per annum. The ability to raise funds would advantage credible and supportable candidates over the "Free Beer Party".

Fourth step – increased disclosure regime as has been suggested (6 monthly) and full disclosure and cessation of fund raising, say, one week prior to the election date.

While there have been issues of concern regarding the influence of political donations for some time, recent events, particularly surrounding Wollongong Council have forced serious action. While some if not all of the Premiers stated opinions may come to fruition I have concern with Premier using unequivocal terms about what changes will occur.

In my view this is ill considered while this Upper House Inquiry is running. I trust that the statements of the Premier do not indicate that decisions on a reform model have already been made as I fear capricious decisions aimed at finding the highest moral ground may not achieve what we all seek – change that truly lays a solid foundation to build community faith in the political system.

This system should not be so complicated or difficult that it deters people from participating in the democratic process. It should not be so difficult that inadvertent mistakes can be made by participants nor so complicated that an interested member of the public could not easily view and understand contribution and expenditure declarations. Income and expenditure for each election should be fully reconciled; there should be no doubt left as to where funds were derived.

With so many avenues for political assistance it would be naïve in the extreme to think that there will not continue to be loopholes within any system. Loopholes can however be reduced as can the value of any benefit derived, but the system will always rely on integrity – integrity can't be legislated. Let's be careful that we don't construct a system to deal with the lowest common denominator at the expense of driving good people away from serving their communities through politics. Minor parties and independents are an important part of democracy and no changes to the electoral system should be made that unreasonably or unjustly disadvantages their ability to participate.

Mayor's Column 12th March 2008

The issue of developer donations to political campaigns has well and truly come into the spotlight with the recent revelations to the Independent Commission Against Corruption (ICAC) during their inquiry into activities at Wollongong City Council.

It would be naive to think that from time to time inappropriate or corrupt conduct would not occur within Councils, or for that matter, any of the three levels of government. On hearing recently of some of the actions of councillors, staff, and developers in this instance, I personally felt very angry. Regardless of the formal findings of the inquiry, there has clearly been a betrayal of the trust that is placed in elected and professional employees.

Unfortunately, to some extent this will confirm what some people already believe about politicians and undo a lot of the good work done by the vast majority of elected representatives and council employees in changing perceptions about councils.

It has long been that political parties, particularly when in power, receive very significant donations to fund their campaigns. The wealth of the big parties and the trend to very expensive campaigns certainly makes campaigns by minor parties and independents much more difficult. I have found this particularly true as an independent.

While there is clearly a need to raise funds to contest an election, this episode has if nothing else become a catalyst to hopefully change things for the better. I am therefore pleased that the political donation system is to be overhauled. Any changes must address loopholes in the system of reporting and should look to limit spending, accurately report donations and expenditure, and most importantly, do what is necessary to build public confidence. The banning of developer contributions may be a part of this but I warn that there will be inherent problems in trying to enforce such measures.

The bottom line is that the system should be honest and ethical; however, this is not something that can be legislated into individuals. Wherever people are involved, there will always be the likelihood that someone will try to find a way around the rules. It will be interesting to see the recommendations that come from the current Legislative Council Inquiry into Electoral and Political Party Funding to which I will be making a submission.

Greg Piper
MAYOR

Independent members

Influence of political donations

1. Many inquiry participants have claimed that political donations, for example from property developers, result in unequal access to government, and undue influence on government policy. What is your response to these claims?

It's natural for people to perceive that money will buy influence and the political funding process must be changed if those fears are to be minimised if not entirely eliminated. While there are examples of political donors gaining access to decision makers, it could not be said that persistence through more acceptable lobbying methods may not have achieved the same – there is however a clearly increased risk of unequal access and certainly a strong perception that that is the case.

Premier's announcement

2. What is your response to the Premier's announcement that he will work with the Election Funding Authority to increase the transparency of independent candidates' campaigns, at state and local government level?

Transparency across the board is essential and improving this must be supported. It is however only one important aspect of electoral funding; there are others. Capping donations, reporting funding on a party basis as well as per candidate, reporting of expenditure and greater accountability for in-kind donations are just as important.

Hypothetically, if all donations were banned and there was a system of public funding, pursuing transparency for financial contributions would be significantly easier. There would however be difficulties in ensuring third party or back-door contributions were eliminated. While I have not been convinced that full public funding is practical I support the intention of the announcement.

3. What is your response to the Premier's announcement that he advocates a ban on all private donations in favour of a system of public funding? Who should be covered by such a ban? Would a blanket ban on donations be enforceable?

I would support a system of shared public and private funding as a means of equitable treatment of candidates as long as there is a suitable method of including first campaigns by independents or new parties. Such a system could also be used to constrain overall spending and halt the trend towards excessive and media-intensive (costly) campaigns. This would require expenditure to be capped as well as a cap on the maximum donation any one entity can make in one year. A modest cap would diminish the reality and perception that a donation could "buy" influence.

4. Should a ban on political donations apply to both State and local government elections?

Yes. Ideally, it would be consistent across all three levels of government.

What is the impact of the Commonwealth scheme on the financing of state and local government elections? If NSW were to ban political donations, how effective would this be in the absence of federal legislation?

I do not have enough knowledge of the Commonwealth scheme to give an informed opinion on this question other than to say that any changes would need to be mindful of loopholes in the system that allows transfer of undeclared benefits across jurisdictions.

5. The Democratic Audit advised that in the last federal election, less than one-fifth of campaign spending was from public funding, whereas in Canada, four-fifths was from public funding. Should a ban on donations be accompanied by increased public funding?

I support changes away from large corporate and individual donations and public funding is a way of achieving this. I think that any changes should aim to reduce the overall expenditure on political campaigns so that results depend less on budget and more on policies and performance. While an increase in public funding should be a component of the system, the public should not be funding uncapped and unreasonable campaigns.

Restrictions on amounts/sources of donations and expenditure

6. Do you support banning donations from particular sources, such as corporations, trade unions or property developers? How could definitions for such sources be developed?

I think it will be a practical impossibility to filter out donors because of their involvement in a particular industry. Individuals can own companies in a variety of industries and companies can have intricate cross ownerships. Such arrangements would make it difficult to trace donations back to the potential beneficiaries of corrupt conduct. It would continue the system that allows deliberate obfuscation of the sources and processing of donations.

While property developers, hotels and the coal industry are prominent examples, almost any industry or group can be a potential beneficiary of government decisions. Whilst it would be desirable to filter out industries that are currently perceived as over-involved in political influence it is also important that future conflicts of interest involving other industries are avoided. Limiting the amount that a contributor can make to a candidate may be more effective than attempting to identify particular industry or other groups.

7. Do you support capping donations, for example from individuals, corporations or trade unions? If so, what would be an appropriate threshold? Should any caps be accompanied by an increase in public funding?

If there is to be a continuation of electoral donations they should be capped at a threshold at which they can be considered insignificant. The current threshold for reporting is \$1500. It must be remembered that this threshold applies to total donations made by the donor rather than an amount per recipient. Capping donations at this or a new threshold should not be used as a way of eliminating

donor declarations. There should be an expanded declaration system that will not only record all monetary donations but also reconcile them with candidates' and parties' declarations. I would suggest that a maximum contribution amount of \$1000 would not be unreasonable.

Is there a need to regulate practices such as intra-party transfers, loans to parties and candidates and in-kind donations?

Any trail of money transfers should follow strict rules and should be audited.

Loans should be capped at the same level as donations and be declared by the donor and the candidate. Expenditure of loan money should be recorded in the candidate's declaration of expenditure and should be reconciled with lender declarations.

All in-kind donations other than unpaid labour should be declared at a commercial rate and be verified by the Election Funding Authority. Such donations should be within the cap on monetary donations, not additional to it.

8. Do you support capping campaign expenditure? What would be an appropriate threshold? Would caps on expenditure be necessary if political donations were banned?

In reducing perceptions of impropriety from donations a cap on expenditure would be less important under a public funding model – it would however remain important as there would be a need to ensure that there was not an unreasonable demand on public resources.

I think that a figure of at least \$1 per constituent should be allowed. A figure of between \$45,000 and \$65,000 per candidate per electorate exceeds the average amount declared by candidates in the 2007 state election and may be an acceptable and realistic range.

The capped amount should be 50% public funded subject to the candidate reaching a 4% share of the formal vote.

Disclosure requirements

9. What is your opinion of the current disclosure regime, including disclosure thresholds and frequency of disclosure?

The current system does not allow sufficient transparency. The candidates' and donors' reporting periods are inconsistent and there is no reconciliation by the Election Funding Authority of donations and expenditure. Not all monetary donations are declared. The information is only published after the election for which the donations were provided.

10. Are the current disclosure requirements concerning fundraising events adequate?

The current system allows the raising of campaign funds by payment of inflated prices for dinners, raffle tickets and similar practices which are essentially a bypass

of the donation and declaration processes. The application of a realistically low cap on spending could effectively remove the benefit derived from these practices.

11. Could you describe your experience in complying with the current requirements for disclosure of political donations and expenditure?

The only significant difficulty I have found in complying with existing requirements is meeting the deadline for lodging my declaration after the 2007 state election. This wasn't a difficulty per se in following the process, but merely an accidental delay that occurred when a relieving staff member failed to mail the declaration as asked. I also needed to amend my return as I had included my personal contribution in the donations. The current situation is not overly onerous though I believe there could be a need to provide greater guidance for candidates if a higher level of reporting is introduced.

Public funding for State elections

12. Are the current levels of direct public funding for State elections adequate? Is the current method for distributing such funding equitable?

I have no complaint about the current system of public funding under the current rules. Clearly it would be inadequate if it was agreed that external contributions are to be banned or restricted.

13. What is your opinion of the requirement that candidates need to receive at least 4% of first preference votes to be eligible for public funding? How does this impact on people who may wish to stand as independent candidates?

I think this is realistic requirement that makes potential candidates assess their level of support before nominating. In this regard it is essentially a pragmatic approach to democracy. It is also a practical barrier to running dummy candidates as preference generators.

Political Education Fund

14. What is your opinion of the eligibility requirements for, and the equity of distributions from, the Political Education Fund? Is the Fund achieving its objective of a more politically-informed electorate?

I am not familiar with the operation of the Political Education Fund but what I do understand is that there are significant funds available through this system for eligible parties. I have never seen or heard of any activities from these parties which reflect "political education" and therefore in the absence of information would be sceptical as to the use of these funds in achieving a more politically informed electorate.

Election Funding Authority

15. Is the Election Funding Authority appropriately resourced? Are its operations transparent? Are its enforcement activities effective?

It would surprise me if the Election Funding Authority did not struggle with the level of resourcing it receives. I anticipate that the Election Funding Authority would require additional resources to increase its current recording and reporting functions to include reconciliation and auditing and perhaps other changes that may come from any reforms. The costs of these additional tasks may be offset by a reduction in the number of donations to be recorded or even a reduction in candidates if changes disadvantage independents and minor parties or deter new participants in the electoral process.

A significant aspect of the EFA's effectiveness is the obvious difference between the information which it publishes compared to that published by the Australian Electoral Commission. Information from the EFA shows that during 2006-7 NSW Labor received over \$8 million in corporate donations. Information from the AEC the Australian Electoral Commission's website shows that NSW Labor declared total receipts of over \$22 million for the 2006-7 year. Discrepancies such as that between the EFA figure and the AEC figure can understandably undermine public understanding of and confidence in the systems of disclosure and thus fuel public cynicism.

The public can only have confidence in a system that they can understand. It is quite clear that the current system of reporting isn't adequate.

Outcomes of this inquiry

16. What are the central recommendations for reforming the system of electoral and political party funding, that you would like to see emerge from this Inquiry?

- Caps on donations
- Reporting of all monetary and in-kind donations other than unpaid labour
- Caps on expenditure

- Reconciliation of donor and candidate declarations
- Partial public funding
- All government advertising in the six months preceding an election should be vetted by a suitable independent body.