

**Submission  
No 76**

## **INQUIRY INTO ELECTORAL AND POLITICAL PARTY FUNDING**

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## Submission to the Select Committee on Electoral and Political Party Funding

### Introduction

This submission forms Lane Cove Council's response to the Select Committee on Electoral and Political Party Funding inquiry into the funding of, and the disclosure of donations to political parties and candidates in NSW State and Local Government Elections.

Lane Cove Council supports a ban on donations from property developers to candidates seeking office for **local, state and federal government**. Developer donations can distort the election process and, particularly in local government, compromise the availability, transparency and openness of the Development Application process. The decision making processes within Council can be unduly impacted by developer donations, hindering the proper exercise of Council functions as a level of government.

### Discussion

In recent years the issue of political donations has emerged in the media, with reports on the potentially corrupt impact developer donations have on development processes<sup>1</sup>. Various leading members of government have called for changes to political party funding and some property developers have voiced their concerns over pressure to donate to large political parties<sup>2</sup>.

The issue is ripe for further debate and consideration. Some argue that a ban on electoral and political donations could nevertheless be circumvented and that the funding of elections would fall onerously back on to the taxpayer<sup>3</sup>. Indeed, these subsequent matters would need to be considered if electoral and political party donation legislation is reformed.

Lane Cove Council is concerned about the impact that developer donations may have on the election process of Councillors and the influence such donations may have on the development application process.

#### 1. *Election process*

Disclosure of political donations and electoral donations are required under the *Election Funding Act 1981*.

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<sup>1</sup> "Donations backlash divides top Libs" Anne Davies and Jonathon Pearlman, Sydney Morning Herald, 3 November 2006; "Cut the political cash flow" Justin Norrie and Anne Davies, Sydney Morning Herald, 2 November 2006.

<sup>2</sup> "Egg-box developers too powerful: Keating", Dan Box and Turi Condon, The Australian, 31 October 2006; "Cut the political cash flow" Justin Norrie and Anne Davies, Sydney Morning Herald, 2 November 2006.

<sup>3</sup> "Cash for Concrete" Editorial, Sydney Morning Herald, 3 November 2006

The Electoral Funding Authority requires that people and organisations who spend a total more than \$1,500 must lodge a declaration that discloses all electoral expenditure including political donations.

The declaration must include disclosure of any donations or gifts received by the donor totalling more than \$1,000 that were used to make a political donation or incur electoral expenditure.

The declaration period commences on the 31st day after the previous local government ordinary election and ends on the 30th day after the current election, and donors must lodge a declaration form within 120 days of the election day.

Currently, there is no cap or maximum on political donations or electoral expenditure in local government. In theory, a person or organisation, such as a developer, is able to expend an infinite amount of money and/or resources on a local government election.

The notion that property developers “donate” money to candidates during local government election periods for altruistic reasons is questionable. It is a reasonable inference that developers essentially try to buy influence when they make a donation or contribute to electoral expenditure. The possible motivating factors for providing resources or money towards a candidate or party during an election raise a number of concerns.

Candidates and parties who obtain a benefit from the election expenditure or political donation, whether pecuniary or non-pecuniary, from a developer are put in a difficult position. Even where there is no direct contact with a particular candidate or party during an election, developer donations can cause a potential conflict of interest or risk of corruption.

The perceptions likely to be created are also of concern. A ban on political donations and electoral expenditure would improve the public’s perception of the election process.

## *2. Development process*

Local government is on the frontline of the development application process. Councils play an integral role in administering the *Environmental Planning and Assessment Act* (1979), the principal law overseeing the assessment and determination of development proposals in New South Wales.

As a consent authority, Councils are directly affected by pressures from property developer interests and other associated interests. The community expects Council to manage development in the area through the consent process.

Councillors' roles in the consent process are fundamental. As elected representatives of the local community, Councillors play a role in ensuring development of the local area is in line with community values.

The current system of electoral and political party funding compromises the availability, transparency and openness of the development application process. As the sole consent authority on many development applications, Council must make a merits-based decision on all matters that come before it. Developer donations can complicate the consent process and hinder Council's decision making functions as a consent authority.

Certainly, Councillors can voluntarily remove themselves from any debate, vote on a motion or recommendation where the subject development or developer could benefit. Councillors who have an interest (pecuniary or non-pecuniary) in a development are requested to declare the details of any interest. However, this is a conscious decision by Councillors to decide when an interest might arise, and the onus is on a Councillor to make a declaration.

Banning property developers from making political donations and spending on elections means the removal of these potential conflicts of interest in the development application process. The ban would go far in achieving a truly open consent process where Councils can make merits-based decisions without fear or favour.

### **Conclusion**

Lane Cove Council supports a ban on donations from property developers to political parties and to candidates seeking office for **local, state and federal government**. The current system of allowing developer donations raises concerns about potential impacts on election processes and compromises the availability, transparency and openness of governmental processes such as the Development Application process in local councils.