

**Submission
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INQUIRY INTO ELECTORAL AND POLITICAL PARTY FUNDING

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Inquiry into Electoral and Political Party Funding

Political campaign donations are a valuable part of the democratic process. As an independent, my election campaigns have relied on donations from residents and members of the local community who have supported me for my achievements, policies and approach to representation.

Giving donations provides an opportunity for people to participate in the political process and express their support. In such cases, donations may be selfless, even altruistic; or they may be made with the intention of supporting a candidate who broadly supports the donor's concerns.

However, individuals and organisations have varying motives for funding political parties and candidates. Donations that are intended to influence policies or decision making for private benefit create community concern and undermine public confidence in the political process.

The public does not believe that corporations make large donation because they are community-minded or that people pay thousands of dollars to dine with Premiers and Ministers, without expecting something in return. Such donations create an imbalance because the wealthy have access and influence that is not available to the general public.

In order to restore and preserve confidence in the political process, it is vital that NSW introduce **legislation to prohibit donations from the highest priority risk areas**, with increased **accountability and transparency mechanisms** to limit opportunities for political donations to subvert the public interest in other areas, and **changes to existing state electoral funding** to achieve equity and probity for public funding.

PRIORITY RISK AREAS

There is growing public concern about the influence of large political donations from some industries/sectors due to the high risk of undue influence and the serious consequences of inappropriate decisions. These priority risk areas generally involve:

- Policy areas with a significant level of **discretionary decision making**, where there is a risk that political donations influence specific decisions contrary to the public interest;
- Industries or sectors with a **high degree of regulation**, particularly to maintain health and safety, where political donations can influence policy outcomes contrary to public interest;

- **Opportunities for significant private financial profit (or loss)** due to government decisions; and
- Potential negative public outcomes that are **significant or permanent**.

These concerns have led to calls in Australia for bans on political donations from the development, liquor, gaming, racing, tobacco and other industries. Some countries have already implemented bans.

Developer Donations

Developer donations are a particularly significant concern due to a combination of discretionary decision making, essential regulation to restrict some activities, potentially high profits and significant and permanent negative consequences from poor decisions.

When introduced in 1979, the NSW *Environmental Planning and Assessment Act* was landmark legislation that increased transparency and accountability in the planning process; strengthened environmental protection; and enshrined the right of public participation in the planning process.

Subsequent changes have undermined the intent of the Act, reducing the level of transparency, accountability and public input; removing the certainty of environmental and heritage guidelines; and significantly increasing the level of ministerial discretion.

Developers have the capacity to directly and significantly benefit from planning decisions through approval of multimillion dollar developments, while the broader community is directly impacted by these decisions as a result of factors such as overshadowing, increased traffic or inadequate sustainability.

The Independent Commission Against Corruption (ICAC) has acknowledged that developer donations can be used to influence decisions of public officials and recommended action in its 2007 report *Corruption Risks in NSW Development Approval Process*.

At a minimum, developer donations undermine public confidence in the planning system because they create doubt that decisions are made fairly or impartially. Donations can also create conflicts for elected representatives who may be forced to choose between the public interest and the interest of their party. At worst, developer donations result in decisions that are not in the public interest.

I agree with former Prime Minister Paul Keating who stated that “we would be better off if developers were forbidden from donating election funds to municipal candidates and to political parties”.

I recommend a total ban on developer donations to political parties and electoral candidates, based on a clear and broad definition of development-related interests to minimise loopholes.

Gaming, Racing and Liquor Industries

Like the development industry, ICAC has identified the gaming, racing and liquor industries as having high level of reliance on various forms of permits and approvals, from which political donations create conflicts of interest.

Due to the significant level of public harm that is associated with the gambling and liquor industries, it is essential that government establish and enforce effective policies to minimise harm while permitting the industries' benefits. Crime statistics clearly show the link between a concentration of liquor outlets and alcohol-related crime and anti-social behaviour; while research on problem gambling increasingly shows its serious impact on those who can least afford it.

Community concern about political donations from the liquor industry was highlighted during last year's campaign to reform NSW liquor laws. Many of the comments I received expressed disgust over a perceived link between the NSW Government's failure to adequately reform laws and the large political donations from pubs and hotels. While liquor reform was achieved, it took a strong, widespread community campaign.

The NSW president of the Australian Hotels Association stated in 2004 on ABC's Stateline that:

"Democracy is not cheap. And your firm and your company – everybody's involved with assisting political parties because at this stage we need to keep these people in place to have the democracy we have today."

I recommend a total ban on political donations from the gambling and liquor industries.

Other Donor Sources

Various other industries have a direct vested interest in using political donations to achieve particular policy outcomes that are in conflict with the broader public interest. Those industries include tobacco companies and government contractors. Many countries have imposed various types of bans on particular sources of political donations.

I recommend a comprehensive investigation of all sources of donations with restrictions on the types of donors that could unduly influence the political process or create a perception of undue influence.

Foreign donations are also a concern as it is difficult to envisage a rationale for foreign donations that does not involve a direct vested interest in a particular outcome. Forty countries have banned foreign donations.

I recommend a total ban on political donations from foreign donors who are not Australian citizens.

TRANSPARENCY AND ACCOUNTABILITY

To restore and strengthen confidence in the political process, there is also need to increase transparency and accountability of political donations. Key areas include ***accurate disclosure of donations*** through the removal of existing loopholes, and the ***introduction of appropriate caps/thresholds*** to limit the potential and perceived influence of donations.

Loopholes for Some Significant Donations

Parties are only required to declare the source of their donation if it is \$1,500 or more in each State and Territory, or if it is \$10,000 or more federally. A corporation can escape being identified for donations to a party of up to \$89,999 in a year and up to \$269,997 over three years by keeping donations in each state, territory and federally below disclosure thresholds.

This loophole needs to be closed to ensure the community can be informed about the sources of donations to parties seeking to represent them.

I recommend that NSW coordinate with other Australian governments to ensure that threshold limits for the disclosure of donations ensure accurate disclosure of all large donations.

Sponsored campaign fundraising events allow lobbyists to pay to sit at tables with Ministers and Shadow Ministers with reduced disclosure requirements, including participants treating functions as business expenses.

This involvement between lobbyists and politicians should be placed on the public record in a timely and accurate manner.

I recommend complete information about sponsored campaign fundraising events, including ticket prices and attendance, be made publicly available prior to election day.

Reporting Returned Donations

In line with my position that campaign donations from some sources of funding may involve a perception or risk of undue influence, I have at times returned donations where I have subsequently suspected a possible conflict of interest.

It is not always possible to readily identify sources of funding, although a complete ban on donations from high risk priority areas will address the most significant problems.

On one occasion, my records indicated that a donation came from a law firm, but subsequent inquiries revealed that the firm had significant development-related investments, so I returned the donation. On another occasion, I returned a donation where an individual was subsequently revealed to be involved in a hotel development.

At times when this has occurred, my formal electoral return had already been lodged with no opportunity to adequately correct the public record. This problem could increase with the adoption of a mechanism for immediate reporting of donations in advance of election day.

I recommend a formal mechanism be provided to enable recording and subsequent reporting of returned campaign donations.

Capping Election Expenditure

NSW, and Australia generally, appear to be experiencing a progressive increase in campaign costs based on increasing competition to grab the electorate's attention. This escalation of costs increases pressure for more fund raising and ever larger donations in order to compete.

The escalation of election costs also potentially reduces political debate by providing an opportunity for some donors to seek influence across the political spectrum. Failing to respond to requests of large donors can reduce a party's campaign budget, while potentially increasing that of the opposition. Industry, lobby groups and developers often fund more than one party to secure the support of both sides of politics.

Limiting campaign and election expenditure would help level the playing field for all parties and candidates, thereby reducing the need to continually outdo campaign budgets. Nine countries have capped campaign funding, including Portugal, Mexico, Bulgaria and Brazil. A further 27 countries have a ceiling on overall party election expenditure, including Canada, UK, Spain, NZ, Poland, Portugal and Belgium.

Donors should have the amount of their donations capped so that campaign budgets do not rely on particular donors. Thirty countries have set maximum campaign contributions from donors.

I recommend that mandatory limits be placed on campaign budgets and donor contributions.

STATE ELECTORAL FUNDING

A **transparent and equitable system of public electoral funding** for candidates is also a vital mechanism for reducing the reliance, and therefore the influence, of large donations. While NSW has a reasonable system compared with some other jurisdictions, it can be improved to increase equity and probity.

Political Education Fund

Under the current NSW *Electoral Funding Act*, political parties (and only parties) receive funding for “political education”. I do not support exclusive funding of parties, which intensifies the imbalance identified by Jennifer Curtin in her 2005 paper, *Getting Elected as an Independent: Electoral Laws and Party Favouritism*, published by the Democratic Audit of Australia. She points out that “the rules regarding political practice in most Australian jurisdictions have been designed in a way that favours parties over individuals”.

The Act provides for parties to receive yearly payments “for the purposes of political education”, with the payments linked to the first preference votes received at the previous election. The purpose of the funding is vague, with the Act stating that the funds “can include, but are not limited to, the posting of written materials and information, regardless of whether the information contains material only about the party concerned”.

The guidelines issued by the Election Funding Authority permit use of these public funds for material on “the history and/or structure of the party; the policies of the party including contrasts with other parties; achievements of the party” and “newsletters for party members” or “seminars for party members/members of the public”.

In 2005, journalist Mark Coulton revealed in the *Sydney Morning Herald* that a considerable portion of this funding was used to meet parties’ administrative and operational costs:

- The Australian Labor Party’s 2003 application included claims for the full salary of five staff members and proportions of the salaries of almost all other staff members; \$1363 for media training workshops and \$6909 for the “research and development of management skills for MPs”. This application resulted in the ALP receiving around \$800,000.
- The Liberal Party made claims for 22 staff, ranging from 12 to 88 per cent of their salaries, \$7482 for telephone calls, \$16,625 for computer services, \$29,159 for photocopier expenses, \$47,070 as a proportion of rent and cleaning costs, \$14.30 for dishwashing detergent, \$16.50 for Earl Grey tea, and \$32 for Panadol tablets.
- The Greens claimed \$157,000. This included \$92.50 as a proportion of the cost of installing window grilles and \$32.50 as a proportion of the cost of repairing a crack in a toilet bowl.

The only information available from the Electoral Funding Authority’s website on recent years’ funding is the amount received by political parties. There is no information on how these funds were used.

There is a need for greater transparency and accountability in the use of this fund, if it is retained. At the very least, the Act should be amended to require the Electoral Funding Authority to publish all political party applications on its website. However, if this public money is genuinely intended to be “political education” funding, other approaches should be used that would guarantee the aims are achieved.

I recommend that the Political Education Fund be abolished, with the funds reallocated to ensure effective public education about Australian democracy, civic participation and NSW political history and systems.

Election Funding for Candidates

Appropriately managed and targeted public funding of individual parliamentary candidates can provide democratic benefits. Public funding helps individuals with community support, but limited financial resources, to contest elections. Without public funding, voters may be denied a reasonable choice of candidates.

One of the arguments for the introduction of public funding of campaigns was to reduce the risk of corruption by making political parties less dependent on political donations. However, candidates still accept donations – and spending on the major parties' campaigns has increased significantly.

The intended aim will only be achieved if public funding is linked to a ban on high risk sources of donations, maximum limits on donations, a cap on total donations and a limit on campaign spending. If sources of private funding were to be significantly limited there may be a case for greater public funding of participants in the electoral process.

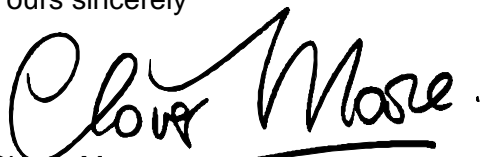
However, funding should only be provided to reimburse campaign expenses that have actually been incurred. I do not support the system used federally and in some states where funding is simply linked to first preference votes, regardless of expenses.

I recommend a revised system of public electoral funding that:

- ***Accurately reflects the nature of political representation in the NSW Parliament by ensuring equitable access to the fund; and***
- ***Is open, transparent and accountable, by for example:***
 - ***clearly defining the purposes for which public funding is provided;***
 - ***requiring all applications for public funding to be publicly available in an easily accessible format; and***
 - ***requiring the funding body to publish reasons for their funding determinations;***
- ***Is directly linked to significant restrictions on large or high risk campaign donations.***

Changes to electoral funding should be preceded by widespread community consultation and discussion.

Yours sincerely



Clover Moore
Member for Sydney