



Case Study: The property and construction industry

*'Equality of opportunity to participate in the exercise of political sovereignty is an aspect of the representative democracy guaranteed by our Constitution.'*¹

Summary

At a time when public trust in our democracy is low – undermined by a perceived lack of integrity in Australia's political and bureaucratic processes, weak laws regulating the flow of money and undue influence in government – reform is needed to help strengthen confidence and trust in liberal democracy and the rule of law.

One of the key reasons for which citizens doubt that government decisions are made in their best interests is the fact that undue influence is able to be bought by well-resourced individuals and groups via the making of political donations and disclosable payments.

In order to promote the transparency of political donations and disclosable payments in Australia, we have analysed data disclosed over the period 1999-2019 to the Australian Electoral Commission (**AEC**) in accordance with the requirements of the *Commonwealth Electoral Act 1918 Cth* (**Electoral Act**).

Our analysis categorised this data by industry and concluded that one of the largest industry contributors over the period studied was the property and construction industry, which disclosed a total of \$54,152,128 in payments over the period (according to donor-reported data).

We found that over the 20 years studied, donations appeared to correlate strongly with elections and peaked in 2019 at \$5,688,112: this peak is owed to donations made by Sugolena Pty Ltd, which donated \$4,093,900 (or 72%) of that year's donations.

We also found that since the introduction of political campaigner provisions into the Electoral Act in 2018,² political campaigners including the Construction Forestry Maritime Mining and Energy Union National Office, United Voice, the Minerals Council of Australia and the Business Council of Australia have received a total of \$3,462,296 in disclosable payments from the industry. Where the entities making these payments disavow the making of political donations (presumably in an effort to show that they are not unduly influencing politics), there is a legitimate question to be asked about whether this is ethically consistent with the making of substantial payments to bodies which are treated as political campaigners under electoral law, insofar as the *raison d'être* of political

¹ *McCloy v New South Wales* [2015] HCA 34, 45 (per French CJ, Kiefel, Bell and Keane JJ).

² Via provisions in the *Electoral Legislation Amendment (Electoral Funding and Disclosure Reform)* Act 2018 (Cth).

campaigners is the reason for which payments made to them are disclosable under the Electoral Act. This is particularly relevant in the case of payments made to the Minerals Council and the Construction Forestry Maritime Mining and Energy Union National Office, which themselves make donations to political parties.

The enormous amounts donated by a sector whose existence depends on the issuing of government permits is highly problematic for public trust in the democratic process. After all, impartiality in decision-making must not only exist but also be *seen* to exist.

Our analysis makes a strong case for reform of the regulation of donations, including the introduction of donations caps and strengthened disclosure requirements:

Donations caps

- Phase in to set donation cap at \$2000 per annum per candidate and \$5000 per party, from a single person or entity (aggregated);
- An exclusion for membership, limited to \$600; and
- Private funding capped at around 50% of total party funding

Donations disclosure regulations

- A reduction in the reporting threshold for donations, with individual donations over \$1,000 and aggregated donations of \$3,000 over 3 years to political parties, candidates, associated entities, third parties and political campaigners being required to be disclosed;
- A broadening of the definition of 'donation' to include income from party fundraisers, corporate sponsorship of business forums, membership fees over \$2,000 per year, and any gift that is spent on electoral expenditure (see section 5 of the *Electoral Funding Act 2018 (NSW)*);
- Real time disclosure of donations, plus quarterly reports providing categorisation and aggregates of donations;
- A single dedicated campaign account to facilitate auditing and enforcement;
- Related companies to be categorised accordingly, and aggregated for any donation or expenditure caps (see for example section 9(8) and section 24(6) of the *Electoral Funding Act 2018 (NSW)*); and
- Enforcement through a strengthened and appropriately resourced enforcement division within the Australia Electoral Commission.

Australia's property and construction industry

This classification includes property developers, construction companies, engineering companies and consultants, real estate agents, property consultants, architects and listed property trusts.³

The industry's big donors

Figure 1 sets out the top ten entities by total amount disclosed to have been donated over the period 1999-2019.

In determining the top 10 donors, companies belonging to the same corporate group or having the same donor identification number have been classed together and their donations counted towards a single total.

Figure 1: top 10 entities making donations and disclosable payments over the period 1999-2019

Donor	Amount
Sugolena Pty Limited	\$4,093,900
Westfield Corporation Limited	\$3,739,050
Hong Kong Kingson Investment Co. Ltd.	\$3,272,500
Croissy Pty Limited	\$2,575,000
Furama Pty Ltd atf Pearson Street Unit Trust	\$2,488,776
Meriton Properties Pty Ltd	\$2,360,917
Walker Group Holdings Pty Ltd	\$2,346,000
Leighton Holdings	\$2,074,117
The Gandel Group Pty Ltd	\$1,919,454
Australia Kingold Investment Development Co. Pty. Ltd.	\$1,155,000

Westfield Group was demerged in 2014, creating the Scentre Group and Westfield Corporation.

Hong Kong Investment Co (headquartered in Kowloon) is owned by property tycoon Chau Chak Wing,⁴ as is Australia Kingold which describes its business as including real estate, finance, health, education, hospitality and media.⁵

Meriton describes itself as "Australia's largest apartment developer",⁶ while Walker describes itself as 'one of *Australia's* largest private development companies, successful

³ Democracy4sale, "The Industries" <http://democracyforsale.net/the-industries/>, accessed 5 January 2021.

⁴ Primrose Riordan, "Local Chinese Fill Political Parties' Coffers", in *The Australian*, 2 February 2018, <https://www.theaustralian.com.au/nation/politics/wealthy-chinese-fill-political-parties-coffers/news-story/83c3b4012da94fde9e76fdfce0409be8>; AEC Transparency Register, "Hong Kong Kingson Investment Co Ltd" <https://transparency.aec.gov.au/AnnualClientEntity/EntityDetail?clientFileId=20628> accessed 5 January 2021.

⁵ Kingold, <https://www.kingold.com/> accessed 5 January 2021.

⁶ Meriton, "About us" <https://www.meriton.com.au/about-us/>, accessed 5 January 2021.

for 50 years. Our legacy is developing iconic, large-scale, award-winning developments".⁷

Leighton Holding is now known as the CIMIC Group, which describes itself as "an engineering-led construction, mining, services and public private partnerships" organisation.⁸

There is very little information available about the operations of a number of these donors: the Gandel Group, which belongs to John Gandel, co-owns Chadstone;⁹ Sugolena, linked to property investor Isaac Wakil, appointed him as liquidator on 7 August 2020;¹⁰ Furama Pty Ltd is owned by businessman Terry Jackson;¹¹ and Croissy Pty Ltd was deregistered in 2010.¹²

2019 property and construction donors

Because some of the biggest donors over the period 1999-2019 either no longer exist or no longer make direct donations to political parties, Figure 2 shows payments to political parties made by the property and construction industry in 2019, together with how the payments were directed:

Figure 2: 2019 donations and disclosable payments by entity

Disclosing entity	Amount	Recipients
Sugolena Pty Limited	\$4,093,900	85.6% to Liberal Party of Australia, 10.2% to Liberal Party of Australia NSW Division, 1.2% to Liberal Party of Australia - Tasmanian Division, 1.7% to Liberal Party of Australia (Victorian Division), 1.2% to Liberal National Party of Queensland, 1.2% to Liberal Party of Australia (S.A. Division)

⁷ Walker Corporation, <https://www.walkercorp.com.au/>, accessed 5 January 2021.

⁸ CIMIC, <https://www.cimic.com.au/>, accessed 5 January 2021.

⁹ Vicinity Centre, "Chadstone reaches \$2 billion sales milestone" https://www.vicinity.com.au/media-centre/media-and-news/180521_chadstone-2b-release, accessed 5 January 2021.

¹⁰ Tom McLroy and Edmund Tadros, "Clive Palmer spent \$83 million on failed election bid" in *Australian Financial Review*, 3 February 2020, <https://www.afr.com/politics/federal/clive-palmer-spent-83-million-on-failed-election-bid-20200203-p53x4j>; ASIC,

https://connectonline.asic.gov.au/RegistrySearch/faces/landing/SearchRegisters.jspx?_afrLoop=3003402451040482&_afrWindowMode=0&_adf.ctrl-state=1d0e6unyew_4, accessed 5 January 2021.

¹¹ Chalpat Sonti, "More cash and plenty of donors to WA political parties" in *WA Today*, 2 February 2010, <https://www.watoday.com.au/national/western-australia/more-cash-and-plenty-of-donors-to-wa-political-parties-20100201-n8k1.html>, accessed 5 January 2021.

¹² ASIC, https://connectonline.asic.gov.au/RegistrySearch/faces/landing/SearchRegisters.jspx?_adf.ctrl-state=1d0e6unyew_24, accessed 5 January 2021.

Meriton Properties Pty Ltd	\$300,000	16.6% to ALP, 83.4% to Liberal Party of Australia
The Gandel Group Pty Ltd	\$245,000	41% to Liberal Party of Australia (Victorian Division), 41% to Liberal Party of Australia, 8% to Liberal Party of Australia NSW Division 10% to Australian Labor Party (Victorian Branch)
Sixmilebridge Pty Limited	\$170,000	12% to National Party, 29% to Liberal Party of Australia Lib Fed, 59% to Advance Australia
Payce Management Pty Limited	\$130,000	15% to Liberal Party of Australia NSW Division , 46% to Australian Labor Party (N.S.W. Branch) , 38% to Liberal Party of Australia NSW Division
Sovori Pty Ltd	\$130,000	38.5% to Liberal Party of Australia NSW Division, 38.5% to Liberal Party of Australia (Victorian division) 23% to Liberal Party of Australia
Walker Group Holdings Pty Ltd	\$100,000	50% to Liberal Party of Australia, 50% to Australian Labor Party
Eb Group Holdings Pty Ltd	\$100,000	100% to Liberal Party of Australia (Victorian Division)
Servcorp Administration Pty Ltd	\$65,000	100% to Liberal Party of Australia NSW Division
Transurban Limited	\$64,500	49% to Australian Labor Party (ALP), 51% to Liberal Party of Australia
Parklea Pty Ltd	\$55,000	45.5% to Australian Labor Party (Victorian Branch), 54.5% to Liberal Party of Australia (Victorian Division)
Moufarrige Alfred	\$50,000	100% to Liberal Party of Australia NSW Division
Mur Land No 1 Pty Ltd	\$50,000	100% to Liberal National Party of Queensland
Satterley Property Group Pty Ltd	\$36,212	46% to Australian Labor Party (Victorian Branch), 54% to Australian Labor Party (Western Australian Branch)

Perron Group Trust	\$30,000	100% to Liberal Party (W.A. Division) Inc
Master Builders Australia Ltd	\$22,000	100% to Australian Labor Party (ALP)
Plenary Group Holdings Pty Ltd	\$16,500	100% to Australian Labor Party (ALP)
Azure Development Group	\$15,000	100% to Liberal National Party of Queensland

Donors' attitudes to donations

Of the top donors set out at Figure 1, only CIMIC has in place accessible policies in respect of political donations.

CIMIC says of government relations that:

We seek to develop positive relationships with members of Parliament at the State and Federal level, their staff, departmental officials, and others involved in the political and policy development process [...] CIMIC Group does not make direct political donations. We retain the flexibility to attend functions that specifically build relationships and offer opportunities to participate in policy dialogue."¹³

Who benefited from disclosable payments over the period 1999-2019?

Figure 3 sets out the parties which benefited from disclosable payments made by the property and construction industry over the period 1999-2019. Over the relevant period, the Liberal Party's federal secretariat has been the recipient of more than double the funds received by the ALP's federal branch; geographically, in respect of the States and Territories, donations were concentrated in NSW with the Liberal and Labor branches in that State receiving a combined \$13,557,158 (more than triple the \$4,953,763 received by the Victorian branches).

Figure 3: Recipients of property and construction industry donations 1999-2019

Recipient	Amount
Liberal Party of Australia	\$15,186,300
Australian Labor Party (N.S.W. Branch)	\$7,711,891
Australian Labor Party (ALP)	\$6,506,465
Liberal Party of Australia NSW Division	\$5,845,267
Liberal Party (W.A. Division) Inc	\$3,692,503
Liberal Party of Australia (Victorian Division)	\$2,710,990
Australian Labor Party (State of Queensland)	\$2,427,405
Australian Labor Party (Victorian Branch)	\$2,242,773

¹³ CIMIC, "Government relations" <https://www.cimic.com.au/en/our-group/governance/government-relations>, accessed 5 January 2021.

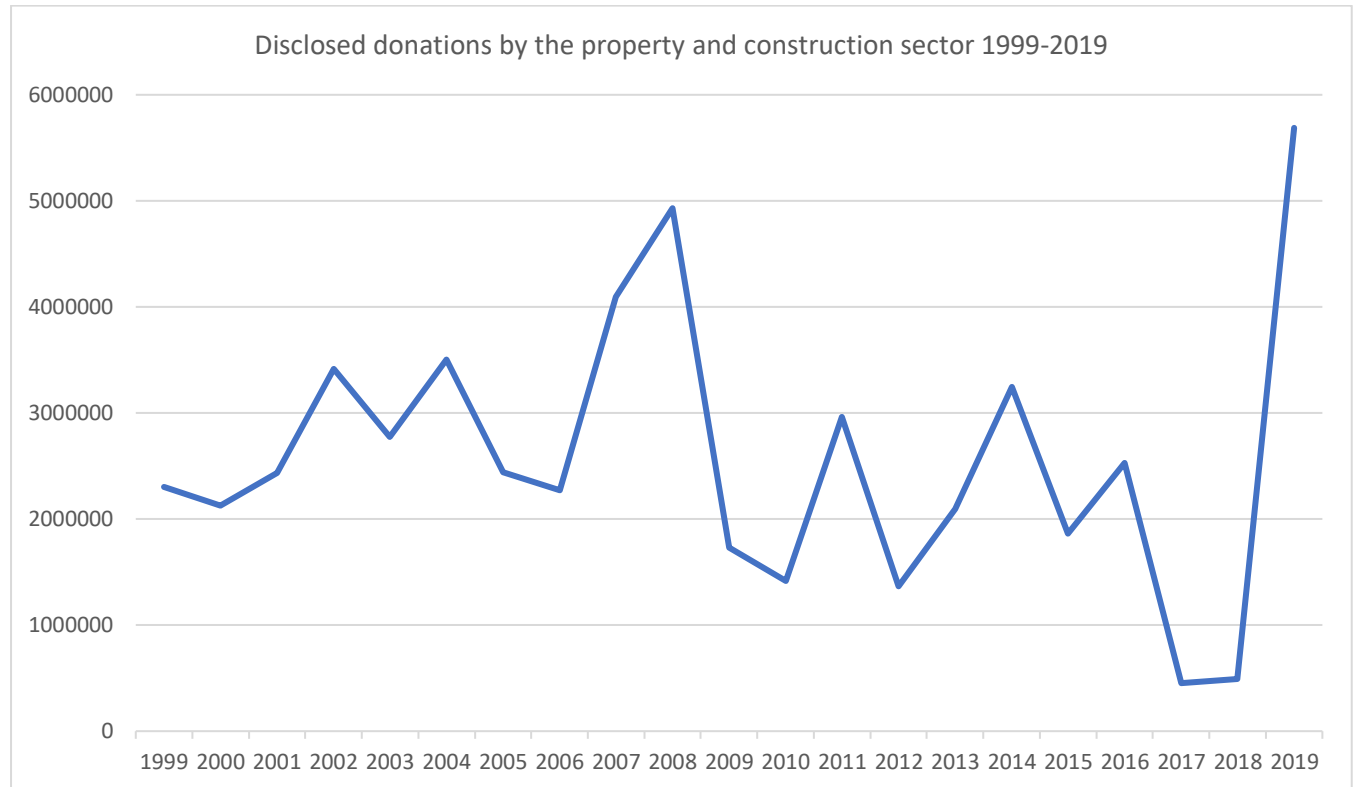
Liberal National Party of Queensland	\$1,234,178
The Free Enterprise Foundation	\$835,000
Liberal Party of Australia - Queensland Division	\$721,014
Australian Labor Party (Northern Territory) Branch	\$652,000
Australian Labor Party (South Australian Branch)	\$515,000
Country Liberals (Northern Territory)	\$515,000
National Party	\$500,000
Liberal Party of Australia (S.A. Division)	\$474,500
National Party of Australia - N.S.W.	\$407,348
Lib (Higgins 200 Club)	\$269,727
Australian Labor Party (Western Australian Branch)	\$258,981
National Party of Australia (Queensland) - QLD	\$216,000
Progressive Business Association Inc	\$194,250
Forward Brisbane Leadership	\$136,836
The Millenium Forum - The Liberal Party of Australia (NSW Division)	\$111,500
Advance Australia	\$100,000
The 500 Club (Lib-WA)	\$83,000
Australian Labor Party (Act Branch)	\$79,500
National Party of Australia (WA) Inc	\$75,000
Liberal Party of Australia - Tasmanian Division	\$70,000
Liberal Party of Australia - Lib-NSW (Federal Account)	\$44,000
Australian Labor Party Queensland	\$36,700
Australian Democrats – National	\$32,500
250 Club Ltd	\$30,000
Australian Labor Party NSW Branch Watson Federal Campaign A/C ALP-NSW	\$30,000
The Liberal Party of Western Australia Pty Ltd	\$28,000
Lib - Vic (Higgins 200 Club)	\$27,500
The Leaders Forum of Western Australia	\$25,000
Liberal National Party of Queensland (Lord Mayor Community Trust)	\$25,000
Family First Party – Vic	\$21,000
Australian Labor Party (Tasmanian Branch) - Tas	\$20,000
Mark Dreyfus Qc MP ALP-Isaacs	\$20,000
Liberal Party of Australia - ACT Division – ACT	\$10,000
The Brisbanes Future Committee	\$10,000
Liberal Party of Western Australia Pty Ltd	\$10,000

Donations and disclosable payments over time

Figure 4 shows that donations and disclosable payments peaked in 2019 at \$5,688,112 (72% of which was donated by the Isaac Wakil-linked Sugolena Pty Ltd).

It appears that there is a strong correlation between elections and peaks in the data, with elections held in 2001, 2004, 2007, 2010, 2013, 2016 and 2019.

Figure 4: Distribution of donations and disclosable payments over the period 1999-2019



Political campaigner disclosable payments

Section 314AB(1) of the Electoral Act requires political campaigners to submit a return to the AEC within 16 weeks after the end of the financial year. Under s 287F of the same Act, a person or entity must be registered for a financial year as a political campaigner if they have incurred or authorised electoral expenditure of \$500,000 or more in that financial year or any of the three previous financial years, or if they have incurred or authorised electoral expenditure of more than \$100,000 and during the previous financial year the amount expended was at least two-thirds of the revenue of that person or entity. Electoral expenditure means expenditure incurred for the dominant purpose of creating or communicating electoral matter (s 287AB), and electoral matter is defined as "matter communicated or intended to be communicated for the dominant purpose of influencing the way electors vote in an election of a member of the House of Representatives or of Senators for a State or Territory": s 4AA.

The data on disclosable payments analysed in this study have been obtained by virtue of political campaigner returns submitted by the Minerals Council, the Business Council of Australia, the Construction Forestry Maritime Mining and Energy Union National office, and United Voice: none of the contributors to any of these campaigners disclosed their contributions.

Much of the \$3,462,296 in disclosable payments made to political campaigners over the relevant period has been classified on the submitted returns as 'other', rather than as donations. Presumably this covers membership fees and the like.

Figure 5 shows the total disclosed payments by the property and construction industry to political campaigners over the period, while Figure 6 shows the industry's contributors to political campaigners over the period.

Figure 5: total disclosed payments by the property and construction industry to political campaigners

Political campaigner	Amount
Construction Forestry Maritime Mining and Energy Union National Office	\$1,549,487
United Voice	\$1,194,148
Minerals Council of Australia	\$438,161
Business Council of Australia	\$280,500

Of these political campaigners, United Voice, the Construction Forestry Maritime Mining and Energy Union National office and the Minerals Council provide funds directly to political parties.

Figure 6: entities making disclosable payments to political campaigners

Entity	Amount	Political campaigner
Jones Lang Lasalle	\$1,194,148	United Voice
Drake Property	\$966,011	Construction Forestry Maritime Mining and Energy Union National Office
Sutherland Farrelly	\$454,581	Construction Forestry Maritime Mining and Energy Union National Office
Thiess Pty Ltd	\$438,161	Minerals Council of Australia
Boral Limited	\$93,500	Business Council of Australia
Mirvac Group	\$93,500	Business Council of Australia
Stockland	\$93,500	Business Council of Australia
Multiplex	\$81,150	Construction Forestry Maritime Mining and Energy Union National Office
Colliers International	\$30,795	Construction Forestry Maritime Mining and Energy Union National Office
Probuild	\$16,950	Construction Forestry Maritime Mining and Energy Union National Office

Of the entities making disclosable payments to political campaigners, only Stockland has a policy stating that it does not make political donations.¹⁴

¹⁴ Stockland, *Government Relations Policy* 2017.

Donations and corruption

In the High Court decision of *McCloy v New South Wales* [2015] HCA 34 (**McCloy**), which upheld the constitutionality of NSW laws imposing caps on political donations, banning donations by property developers and prohibiting indirect campaign contributions, the plaintiff (a property developer)– argued that gaining access through political donations to exert persuasion was not undue influence.

The Court pointed out that the line between ingratiation and access, and corruption, "may not be so bright",¹⁵ before going on to consider the nature of different kinds of corruption.

It described "quid pro quo" corruption as occurring where a candidate for office "may be tempted to bargain with a wealthy donor to exercise his or her power in office for the benefit of the donor in return for financial assistance with the election campaign".¹⁶

The Court then considered clientelism – a "more subtle kind of corruption" – which concerns "the danger that officeholders will decide issues not on the merits or the desires of their constituencies, but according to the wishes of those who have made large financial contributions valued by the officeholder."¹⁷ It explained the genesis of this form of corruption in the following terms:

*It arises from an office-holder's dependence on the financial support of a wealthy patron to a degree that is apt to compromise the expectation, fundamental to representative democracy, that public power will be exercised in the public interest. The particular concern is that reliance by political candidates on private patronage may, over time, become so necessary as to sap the vitality, as well as the integrity, of the political branches of government.*¹⁸

The Court went on to cite the US decision of *McConnell v Federal Election Commission* 540 US 93 at 153 (2003), which described clientelism as being neither easy to detect nor practical to criminalise, leading to the conclusion that " [t]he best means of prevention is to identify and to remove the temptation".¹⁹

Both quid pro quo and clientelistic corruption, according to the Court, "threaten the quality and integrity of governmental decision-making".²⁰ Then there is "war-chest" corruption, where money may pose a threat to the electoral process.

The Court concluded in respect of the constitutionality of donations limitations that "[t]he risk to equal participation posed by the uncontrolled use of wealth may warrant legislative action to ensure, or even enhance, the practical enjoyment of popular sovereignty".²¹ It found that donations caps do not impede the system of representative

¹⁵ *McCloy v New South Wales* [2015] HCA 34, 35.

¹⁶ *Ibid.*, 36.

¹⁷ *Ibid.*, 36, citing *McConnell v Federal Election Commission* 540 US 93 at 153 (2003).

¹⁸ *Ibid.*

¹⁹ *Ibid.*, 37.

²⁰ *Ibid.*, 38.

²¹ *Ibid.*, 45.

government provided for by our Constitution; it also found that the NSW provisions were not only compatible with representative government, but preserved and enhanced it.²²

Impartiality in government decision-making

It is critical for public trust in democracy that impartiality in government decision-making not only exist but be *seen* to exist. While it is not our intent to impugn the decision-making in the below case study, it serves as an example of an instance where citizens may not *perceive* impartiality in government decision-making to exist.

Case study

Political donations and contributions can assist in securing access to Government Ministers. While Commonwealth Ministerial diaries are hidden from public view, we can discern the level of access achieved by property developer donors in NSW. Disclosed NSW Ministerial diaries establish that between January 2019 and September 2020, the Meriton Group met with NSW Government Ministers on at least 18 occasions. These included the following meetings:

- with the Treasurer in September 2020 to discuss "Industry and financial impact of COVID-19";²³
- with the Deputy Premier + Minister for Water, Property and Housing in September 2020 to discuss "housing supply";²⁴
- with the Minister for Better Regulation in July 2020 to discuss "the NSW building and construction industry";²⁵
- with the Minister for Better Regulation in September 2020 to discuss "the NSW building and construction industry";²⁶
- with the Minister for Finance and Small Business July 2020 to discuss "Commercial tenancy relief and activating the economy";²⁷
- with the Treasurer in June 2020 to discuss "Industry and financial impact of COVID-19";²⁸
- with the Minister for Better Regulation in June 2020 "to discuss the building and construction industry";²⁹

²² Ibid, 46-47.

²³ New South Wales Department of Premier and Cabinet, Disclosure Summary, *Treasurer, For the period of 1 July 2020 to 30 September 2020* <https://www.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/publications/July-2020-September-2020-1653/02-Treasurer-July-2020-September-2020.pdf> , accessed 5 January 2021.

²⁴ New South Wales Department of Premier and Cabinet, Disclosure Summary, *Deputy Premier and Minister for Regional New South Wales Industry and Trade, For the period of 1 July 2020 to 30 September 2020* <https://www.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/publications/July-2020-September-2020-1653/Deputy-Premier-and-Minister-for-Regional-New-South-Wales-Industry-and-Trade-July-2020-September-2020.pdf> , accessed 5 January 2021.

²⁵ New South Wales Department of Premier and Cabinet, Disclosure Summary, *Minister for Better Regulation and Innovation, For the period of 1 July 2020 to 30 September 2020* <https://www.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/publications/July-2020-September-2020-1653/Minister-for-Better-Regulation-and-Innovation-July-2020-September-2020.pdf> , accessed 5 January 2021.

²⁶ Ibid.

²⁷ New South Wales Department of Premier and Cabinet, Disclosure Summary, *Minister for Finance and Small Business, For the period of 1 July 2020 to 30 September 2020* <https://www.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/publications/July-2020-September-2020-1653/Minister-for-Finance-and-Small-Business-July-2020-September-2020.pdf> , accessed 5 January 2021.

²⁸ New South Wales Department of Premier and Cabinet, Disclosure Summary, *Treasurer, For the period of 1 April 2020 to 30 June 2020* <https://www.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/publications/April-June-2020-1618/02-Treasurer-April-2020-June-2020.pdf/> , accessed 5 January 2021.

²⁹ New South Wales Department of Premier and Cabinet, Disclosure Summary, *Minister for Better Regulation and Innovation, For the period of 1 April 2020 to 30 June 2020* <https://www.dpc.nsw.gov.au/assets/dpc-nsw->

- with the Treasurer in May 2020 to discuss "Industry and financial impact of COVID-19";³⁰
- with the Planning Minister in May 2020 "to discuss short term planning reforms";³¹
- with the Minister for Water, Property and Housing in May 2020 to discuss "property";³²
- with the Treasurer in March 2020 to discuss "Industry and financial impact of COVID-19".³³
- with the Minister for Water, Property and Housing in December 2019 to discuss "property";³⁴
- with the Attorney General in September 2019 to discuss "Land and Environment Court";³⁵
- with the Treasurer in September 2019 to discuss "NSW state economy and planning";³⁶
- with the Deputy Premier in August 2019 for a "Building industry discussion";³⁷
- with the Minister for Water in August 2019 to discuss the "housing market";³⁸
- with the Minister for Better Regulation in July 2019 to discuss "the building and construction industry";³⁹ and
- with the Planning Minister in February 2019 "to discuss NSW planning policy".⁴⁰

[gov-au/publications/April-June-2020-1618/Minister-for-Better-Regulation-and-Innovation-April-2020-June-2020.pdf](https://www.dpc.nsw.gov.au/publications/April-June-2020-1618/Minister-for-Better-Regulation-and-Innovation-April-2020-June-2020.pdf) , accessed 5 January 2021.

³⁰ Ibid.

³¹ New South Wales Department of Premier and Cabinet, Disclosure Summary, *Minister for Planning and Public Spaces, For the period of 1 April 2020 to 30 June 2020* <https://www.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/publications/April-June-2020-1618/Minister-for-Planning-and-Public-Spaces-April-2020-June-2020.pdf> , accessed 5 January 2021.

³² New South Wales Department of Premier and Cabinet, Disclosure Summary, *Minister for Water, Property and Housing, For the period of 1 April 2020 to 30 June 2020* <https://www.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/publications/April-June-2020-1618/Minister-for-Water-Property-and-Housing-April-2020-June-2020.pdf> , accessed 5 January 2021.

³³ New South Wales Department of Premier and Cabinet, Disclosure Summary, *Treasurer, For the period of 1 January 2020 to 31 March 2020* <https://www.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/publications/January-April-2020-1557/02-Treasurer-January-2020-March-2020.pdf> , accessed 5 January 2021.

³⁴ New South Wales Department of Premier and Cabinet, Disclosure Summary, *Minister for Water, Property and Housing, For the period of 1 July 2019 to 20 September 2019* <https://www.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/publications/October-December-2019-1544/Minister-for-Water-Property-and-Housing-October-2019-December-2019.pdf> , accessed 5 January 2021.

³⁵ New South Wales Department of Premier and Cabinet, Disclosure Summary, *Attorney General and Minister for the Prevention of Domestic Violence, For the period of 1 July 2019 to 30 September 2019* <https://www.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/publications/July-September-2019-1459/Attorney-General-and-Minister-for-the-Prevention-of-Domestic-Violence-July-2019-September-2019.pdf> , accessed 5 January 2021.

³⁶ New South Wales Department of Premier and Cabinet, Disclosure Summary, *Treasurer, For the period of 1 July 2019 to 30 September 2019* <https://www.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/publications/July-September-2019-1459/02-Treasurer-July-2019-September-2019.pdf> , accessed 5 January 2021.

³⁷ New South Wales Department of Premier and Cabinet, Disclosure Summary, *Deputy Premier and Minister for Regional New South Wales Industry and Trade, For the period of 1 July 2019 to 30 September 2019* <https://www.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/publications/July-September-2019-1459/Deputy-Premier-and-Minister-for-Regional-New-South-Wales-Industry-and-Trade-July-2019-September-2019.pdf> , accessed 5 January 2021.

³⁸ New South Wales Department of Premier and Cabinet, Disclosure Summary, *Minister for Water, Property and Housing, For the period of 1 July 2019 to 30 September 2019* <https://www.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/publications/July-September-2019-1459/Minister-for-Water-Property-and-Housing-July-2019-September-2019.pdf> , accessed 5 January 2021.

³⁹ New South Wales Department of Premier and Cabinet, Disclosure Summary, *Minister for Better Regulation and Innovation, For the period of 1 July 2019 to 30 September 2019* <https://www.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/publications/July-September-2019-1459/Minister-for-Better-Regulation-and-Innovation-July-2019-September-2019.pdf> , accessed 5 January 2021.

⁴⁰ New South Wales Department of Premier and Cabinet, Disclosure Summary, *Minister for Planning, Minister for Housing and Special Minister of State, For the period of 1 July 2019 to 30 September 2019*

Need for reform

The following reforms in the regulation of political finance are required to achieve transparency of donations and improve public trust in politics:

Political donations caps

Caps on donations are necessary to eliminate the ability of those with large amounts of money to buy undue influence and access. Our current system of unlimited donations means that those with the capacity to donate more are given more attention by politicians and political parties than an average constituent. Implementing caps set at \$2000 per annum per candidate and \$5000 per party, from a single person or entity (aggregated) would level the playing field, as most individuals on an average wage would be able to afford to donate this amount.

The provision of an exclusion for membership would encourage political parties and organisations to raise basic organisational revenue through broad participation of individuals, and limiting this exclusion to \$600 would avoid corporations having undue influence through \$10,000 'membership' to a party's business networks or advocacy peak bodies. It would also put the national scheme in line with section 96D of the *Election Funding, Expenditure and Disclosure Act 1981* (NSW).

Private funding should be capped at around 50% of total party funding.

Political donations disclosure

Current disclosure regulations allow the majority of political donations to be hidden. With the threshold for reporting set at \$14,000 and without a cap, donors could potentially donate \$13,900 multiple times through federal and state parties and not be disclosed to the public.

Donations above \$14,000 and disclosed are only made publicly available in early February of the following year, meaning that a donation made in July may be hidden for 18 months.

Donations made through attendance at party fundraisers, priced at \$10,000-20,000 per person, are currently not categorised as gifts. Corporate sponsorship or membership of cash-for-access business forums, with reports citing corporate contributions of \$27,500 and \$110,000, are at risk of being hidden from public view. The Millennium Forum, a former business network of the Liberal Party, has been exposed in funnelling illegal property developer donations, and facilitating the undue influence of property developers seeking assistance with a debt-ridden company.

Other membership fees that contribute to advocacy and electoral expenditure are also not disclosed to the AEC, including corporate membership of peak advocacy bodies. The Minerals Council of Australia, which "represents the minerals industry with a common purpose in advocating responsible policies..." raised over \$200 million in

<https://www.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/publications/January-March-2018-1409/1088bff7af/Minister-for-Planning-Minister-for-Housing-and-Special-Minister-of-State-January-2019-March-2019.pdf> , accessed 5 January 2021.

revenue from 2007-2016 with a peak in 2011-12 that coincided with the campaign against the Minerals Resource Rent Tax.

We make the following recommendations in respect of political donations disclosure regulations:

- A reduction in the reporting threshold for donations, with individual donations over \$1,000 and aggregated donations of \$3,000 over 3 years to political parties, candidates, associated entities, third parties and political campaigners being required to be disclosed.
- A broadening of the definition of 'donation' to include income from party fundraisers, corporate sponsorship of business forums, membership fees over \$2,000 per year, and any gift that is spent on electoral expenditure (see section 5 of the Electoral Funding Act 2018 (NSW))
- Real time disclosure of donations, plus quarterly reports providing categorisation and aggregates of donations
- A single dedicated campaign account to facilitate auditing and enforcement;
- Related companies to be categorised accordingly, and aggregated for any donation or expenditure caps (see for example section 9(8) and section 24(6) of the *Electoral Funding Act 2018* (NSW))
- Enforcement through a strengthened and appropriately resourced enforcement division within the Australia Electoral Commission.

About The Centre for Public Integrity

The Centre for Public Integrity is an independent think tank dedicated to preventing corruption, protecting the integrity of our accountability institutions, and eliminating undue influence of money in politics in Australia. Board members of the Centre are the Hon Tony Fitzgerald AC QC, the Hon Stephen Charles AO QC, the Hon Anthony Whealy QC, Professor George Williams AO, Professor Joo Cheong Tham and Geoffrey Watson SC. More information at www.publicintegrity.org.au.