



Mr Roger Bailey
General Manager
City of Lithgow Council
PO Box 19
Lithgow NSW 27902790

Lithgow City Council
Scanned

23 MAR 2012

Ref: General Mgr Advice New Legislation

Doc. No.....
C/OA Ref.....
Local B.....

20 March 2012

Dear Mr Bailey,

Re: Advice of changes to political donations laws commencing 9 March 2012

I am writing to advise you of recent amendments that have been made to the *Election Funding, Expenditure and Disclosures Act 1981*.

A copy of the attached advice has been sent to all current local government councillors however you may wish to include this matter on the agenda for a future council meeting.

The information contained in this letter is general in nature in respect of recent changes to the *Election Funding, Expenditure and Disclosures Act 1981*. Local government councillors and candidates should know and understand their obligations and responsibilities under the Act. To assist the Election Funding Authority will soon publish revised guidebooks and information on its website (www.efa.nsw.gov.au).

The Authority will be conducting information seminars in May, June and July this year for candidates, groups and political parties throughout NSW ahead of the 2012 local government elections. Details of the seminars will be available in the near future on the Authority's website.

If you have any questions in respect of any information contained in the attachment please contact the Authority on 1300 022 011.

Yours sincerely,

Brian DeCelis
Director Funding and Disclosure

Advice of changes to political donations laws commencing 9 March 2012

The NSW Parliament recently enacted amendments to election campaign funding and disclosure laws.

I feel it appropriate to bring these changes to your attention as the laws affect all political parties (registered and non-registered), candidates, groups of candidates, elected members and third-party campaigners in NSW. The laws also affect donors including corporations and other entities and individuals on the roll of electors for Federal, State or local government elections.

The amendments came into force on 9 March 2012 and were inserted into the *Election Funding, Expenditure and Disclosures Act 1981* (available for viewing at www.legislation.nsw.gov.au).

A summary of the amendments are as follows:

1. Prohibition of political donations other than by individuals on the electoral roll

It is unlawful for a political donation to a party, elected member, group, candidate or third-party campaigner to be accepted unless the donor is an individual who is enrolled on the roll of electors for State elections, the roll of electors for Federal elections or the roll of electors for local government elections: s.96D(1).

It is unlawful for an individual to make a political donation to a party, elected member, group, candidate or third-party campaigner on behalf of a corporation or other entity: s.96D(2).

It is unlawful for a corporation or other entity to make a gift to an individual for the purpose of the individual making a political donation to a party, elected member, group, candidate or third-party campaigner: s.96D(3).

It is unlawful for an industrial organisation or other entity to pay an annual or other subscription to a party for affiliation with the party. Such subscriptions are gifts by virtue of s.85(3) of the Act and are therefore political donations: s.96D(4).

It is *not* unlawful for branches of parties or associated parties to dispose of property between one another: s.96D(5); however, such dispositions remain gifts and, accordingly, political donations for the purposes of disclosure: s.85(3A).

It is unlawful for a person to receive a reportable loan (other than a loan from a financial institution) from an entity: s.96G(1).

Political donations are those in relation to State elections and elected members of the NSW Parliament, local government elections and elected members of councils or matters unconnected to any election or elected member (e.g. political donations made to a State Party administration account). Political donations are not those made exclusively for the purpose of Federal elections or elected members of the Australian Parliament.

2. Meaning of "electoral expenditure" and "electoral communication expenditure"

The amendments modify the definition of electoral expenditure and electoral communication expenditure as they apply to an entity or other person not being a registered party, elected member, group or candidate. Electoral expenditure and

electoral communication expenditure **does not** include expenditure incurred by an entity or other person (not being a registered party, elected member, group or candidate) if the expenditure is not incurred for the dominant purpose of promoting or opposing a party or the election of a candidate or candidates or influencing the voting at an election: s.87(4).

3. Aggregation of expenditure caps in respect of State election campaigns

The applicable caps on electoral communication expenditure for a party for a State election campaign now includes the aggregation of electoral communication expenditure incurred by the party and any other electoral communication expenditure incurred by an affiliated organisation of that party: s.95G(6).

An affiliated organisation of a party means a body or other organisation, whether incorporated or unincorporated, that is authorised under the rules of that party to appoint delegates to the governing body of that party or to participate in pre-selection of candidates for that party (or both): s95G(7).

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I remind you that a political donation includes (but is not limited to) a gift made to or for the benefit of a political party, candidate, group of candidates, elected member or third-party campaigner and may be monetary or non-monetary (gift in kind).

The information contained in this letter is general in nature in respect of recent changes to the *Election Funding, Expenditure and Disclosures Act 1981*. You should know and understand your obligations and responsibilities under the Act. To assist you the Election Funding Authority will soon publish revised guidebooks and information on its website (www.efa.nsw.gov.au).

The Authority will be conducting information seminars in May, June and July this year for candidates, groups and political parties throughout NSW ahead of the 2012 local government elections. Details of the seminars will be available in the near future on the Authority's website.

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Yours sincerely



Brian DeCelis
Director Funding and Disclosure

