



ENVIRONMENTAL DEFENDERS OFFICE (QLD) INC.

30 Hardgrave Road
West End QLD 4101

Telephone: (07) 3211 4466
Facsimile: (07) 3211 4655
E-mail: edoqld@edo.org.au
www.edo.org.au/edoqld
ABN 14 911 812 589

16 September 2009

Hon. Anna Bligh
Integrity and Accountability in Queensland
PO Box 15185 City East
Brisbane Qld 4002

By email: integrityandaccountability@premiers.qld.gov.au

Dear Premier,

SUBMISSION – INTEGRITY AND ACCOUNTABILITY IN QUEENSLAND

SUMMARY

We recommend that you:

1. Ban private electoral funding of political parties or candidates
2. Cap electoral expenditure
3. Introduce publicly funded State and Local government elections
4. Ban paid lobbyists. Register employees of commercial enterprises who are lobbyists
5. Introduce transparency and real time disclosure of the electoral and decision-making process
6. Ensure that information about procurement processes and calls for tenders and expressions of interest, including tenders and evaluation reports for government contracts are readily accessible to the public under legislative provisions without the need for a FOI application.

We also say that

- A. The Integrity Commissioner has in recent times made valuable public comments on not just compliance with the law but how standards are to be improved. We really do need independent bodies speaking out on integrity and accountability issues in general. We also need such an independent body taking enforcement action if the laws are breached, rather than as the CMC usually does, merely recommending changes to departments or politicians with other priorities.
- B. As to the effectiveness of the CMC, the experience of EDO's clients over the years is that complaints about local government matters (such as suspected conflict of interest) are often given low priority at the CMC due to lack of resources to investigate.
- C. To ensure that the impacts of undue influence of developers over government are discovered and remedied the State Government must trigger nothing less than a Royal Commission - preferably led by Mr Tony Fitzgerald, QC - into the influence of the development industry on State Government decision-making over the past ten years.

1 BACKGROUND

The Queensland Government has invited public comment on the discussion paper, Integrity and Accountability in Queensland. EDO is deeply troubled by indications that many important government decisions favour private development interests over the legitimate interests and concerns of the community for environmental protection.

As a community legal centre specialising in planning and environmental law, EDO hears first hand accounts from ordinary Queenslanders about State and local government decisions to push ahead development, despite community opposition on public interest grounds. The facts that Planning Ministers such as Stirling Hinchliffe come from the development industry and that former Planning Ministers such as Terry Mackenroth or retired Mayors such as Jim Soorley often get jobs in the development industry, suggests an unhealthy closeness between politicians and the land development industry. Government reports such as the SEQ State of the Region Report (2008) shows that over population and overdevelopment is causing severe loss of biodiversity and contributing to dangerous climate change. This underlines the need for new rules on integrity and accountability.

It is important to make clear at the beginning that we do not intend to focus on whether undue influence or favouritism can, in fact, be proved in Court. Rather the point we want to emphasise is that the decision making and electoral process often appears biased in favour of those with money and access to senior public servants and politicians. Reforms are imperative in order to restore community trust in Queensland's system of democracy.

This submission was prepared with the assistance of Adam Millar, EDO-NQ Principle Solicitor, Scott Sellwood, EDO Qld Solicitor, and Jayne Lightfoot, volunteer law student.

2 A SHARED VISION FOR QUEENSLAND

First and foremost we believe that the goal for Queensland is to develop a system of representative democracy where:

- No one person by their donations has undue influence over or control of government decision making;
- There is equal access for all political candidates to electors; and
- Electoral campaigns, government policy development and government decision making are transparent

We make the following recommendations.

3 REFORMS

3.1 Ban private electoral funding of political parties or candidates

The major problem in Queensland is that members of the development industry make major electoral donations totalling hundreds of thousands of dollars to all major political parties and it is not unreasonable to think that they would expect favours in return when that party is in office. For example, moving a line in the SEQ Regional Plan can transform land use from rural to residential and this can change land values one hundred fold.

Any politician that does not gain such donations is at a disadvantage as they do not have enough funds to engage in expensive electoral advertising such as on prime time TV to compete with other candidates.

The best way to deal with that imbalance of resources is to totally ban all private funding of political parties or candidates. If there is a real constitutional issue making a complete ban unconstitutional as hypothesised in the Green Paper then the amount that may be donated must be kept at a very low threshold e.g. \$20 per person and only individuals entitled to vote ought to be allowed to donate.

The ban or strict cap needs to consider a wide definition of “electoral expenditure”. So that tickets to fundraising dinner count. So that loans of offices and equipment and staff count. There also needs to be a legislative ban on dinners or events which are “cash for access”, such as \$1000 head dinners where guests are guaranteed access to particular Ministers.

3.2 Cap electoral expenditure

The amount being spent on electoral campaigns is skyrocketing out of control, in Australia as well as in the US. In the US, which has contribution caps on donations, the amount spent on the 2004 Federal Elections alone costs more than the GDP of Zimbabwe for the same year¹. When we have social and environmental problems to solve this is basically a wicked waste of resources, be they private or public. If politicians cannot use expensive mass media then they will be forced to engage more with the community to promote themselves.

If low caps are placed on how much political candidates, parties and third parties may spend on elections, then that removes the incentive for politicians to hang around rich potential donors in preference to meeting and considering the views of more ordinary citizens or of non profit community or environmental groups.

A key member of Premier Bligh’s ethical roundtable has said, “Capping political donations would help save political parties by reducing the temptation to act improperly”².

Advertising will need to be clearly labelled as electoral advertising to aid accountability.

3.3 Introduce publicly funded State and Local government elections

If there is public funding of electoral campaigns at a capped amount, coupled with a ban or strict cap on donations and a cap on total electoral spending, then many problems described above are avoided.

Of course, it is an expense on the public purse however the public will reap rewards in terms of greater public interest considerations of decision making by elected members.

There needs to be a system so that smaller parties or independents who secure a certain percentage of the vote gain public funding not just the two major parties. The system must, also, contain requirements for the funded parties to operate internally in a democratic and not oligarchic way

Some electoral expenditure could be reduced. For example if handing out how to vote cards was banned and instead each party or candidate’s How to vote Card could be registered with the Electoral Commission and displayed at each polling booth that would reduce expense and wasted natural resources.

¹ Page 4 Ewing K, *Future Challenges: the Costs of Democracy* 19 June 2008
<http://www.chifley.org.au/articles/events/ewing.php> (accessed 16 September 2009)

² “Expert urges cap on political donations”, Courier Mail, 3 September 2009.

3.4 Ban paid lobbyists. Register employees of commercial enterprises who are lobbyists

We agree with banning success fees for lobbyists. Why stop at requiring paid lobbyists to place their names on a register? Lobbyists give those who pay them an unfair advantage over citizens or non profit organisations in influencing government policies and decisions, so it is best that commercial lobbying is banned. If employees of commercial enterprises want to lobby for their employers, then they ought to be on the register of lobbyists.

The codes of conduct are important for politicians, public servants and lobbyists.

The register of lobbyists ought to be overseen by an independent third party, not Premier and Cabinet Department.

3.5 Transparency of the electoral and decision-making process is needed.

The CMC inquiry into the Gold Coast City Council recommended real time disclosure of political donations. Transparency helps lead to confidence in the democratic process, although it needs to be coupled with bans and caps discussed above.

We really need to see all the information about the democratic process online in the one spot – information about candidates' expenditure; until private donations are banned, the identity of the donors including shareholders of companies; and registers of interests, of lobbyists and of gifts. The disclosure needs to be made online within 7 days of the relevant action with no donations allowed to be made in the 14 days immediately prior to an election.

Prior to the March 2008 Brisbane City Council election, two West End residents³ sought to inspect the declaration forms of City Councillors at the Brisbane City Council pertaining to the prior election. Not only did it take nearly one dozen phone calls and emails to view those declarations but as the declarations were limited to donations of over \$200 made to candidates *personally*, most forms were blank - donations tend to be made directly to political parties.

Disclosure of donations, whether made directly to candidates or to political parties, must be contemporaneous and easily accessible by the public. Such information ought to be online and in the one spot.

Who does the Mayor have lunch with? Who does the Planning Minister meet for drinks? The diaries of key decision makers in government need to be kept up to date and made publicly available to see who they meet and talk with prior to particular decisions.

3.6 Procurement Processes

Information about procurement processes and calls for tenders and expressions of interest, including tenders and evaluation reports for government contracts ought to be readily accessible to the public under legislative provisions without the need for a FOI application.

Particularly in regard to major coastal developments in Central Queensland and North Queensland on leased land, there has been a lack of easy to obtain documents by which to see if the tender process

³ Jo Bragg and Anne Savage

was fairly carried out and what significance was given in the process to prior breaches of environmental laws by the tenderer.

4 PREVENTION AND PROBITY

The Integrity Commissioner has in recent times made valuable public comments on not just compliance with the law but how standards are to be improved. We really do need independent bodies speaking out on integrity and accountability issues in general. We also need such an independent body taking enforcement action if the laws are breached, rather than as the CMC usually does, usually merely recommending changes to Departments or politicians with other priorities.

As to the effectiveness of the CMC, the experience of EDO's clients over the years is that complaints about local government matters (such as suspected conflict of interest) are often given low priority at the CMC due to lack of resources to investigate.

To ensure that the impacts of undue influence of developers over government are discovered and remedied the State Government must trigger nothing less than a Royal Commission - preferably led by Mr Tony Fitzgerald, QC - into the influence of the development industry on State Government decision-making over the past ten years.

5 CONCLUSION

EDO is available to answer any questions in relation to this submission.



Jo-Anne Bragg
Principal Solicitor

Environmental Defenders Office (Qld) Inc