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## **COMMENCEMENT OF THE LOCAL GOVERNMENT AND PLANNING LEGISLATION AMENDMENT (POLITICAL DONATIONS) ACT 2008**

The *Local Government and Planning Legislation Amendment (Political Donations) Act 2008* is expected to commence on 1 September 2008 by Proclamation published in the Government Gazette.

The object of the amending Act is to amend the *Local Government Act 1993* and the *Environmental Planning and Assessment Act 1979* in relation to political donations.

### ***Local Government Act changes***

The Act inserts Part 8A into the Local Government Act, requiring the general manager of each local council to keep a public register of all current donations and expenditure declarations lodged by councillors with the Election Funding Authority of NSW (section 328A).

In addition, where a general manager reasonably suspects that a councillor has failed to comply with his or her obligation to disclose and manage a conflict of interests arising from a political donation, the general manager must refer the matter to the Director General (section 328B).

Sections 328A and 328B do not apply to county councils.

New section 375A requires the general manager to record which councillors vote for and against each planning decision of the council, and to make this information publicly available. This section will also apply to those county councils delegated the exercise of planning functions under the *Environmental Planning and Assessment Act 1979*.

To maintain the register, the Act requires that a division be called (in accordance with the council's code of meeting practice or Regulation) whenever a planning decision is put at a council or committee meeting, including meetings closed to the public. Each decision recorded in the register is to clearly describe or identify the matter being determined and how councillors voted.

Section 12 of the Act is amended to include the current declarations of disclosures of political donations and the register of councillor voting on planning matters as documents that are publicly available for inspection.

What councils now need to do

- The Department considers that providing a link from council's website to the Election Funding Authority website will satisfy section 328A. Council should ensure that members of the public are provided with access to this website at council's offices if they do not have access to the internet. Members of the public should also be able to request copies be printed of the disclosures of political donations returns for taking away in accordance with the requirements of sections 12 and 12B of the Act.
- Section 328B requires that if the general manager has a reasonable suspicion that a councillor has not complied with the requirements of clauses 7.21 to 7.25 of the Model Code of Conduct, then he/she is to refer the matter to the Director General and not to a conduct review committee or reviewer.
- For the purposes of section 375A the general manager will need to establish a register that contains:
  - a description or identifier of the development or planning matter considered by council
  - the decision in relation to the matter or a reference to the minutes of the meeting where the decision is recorded
  - names of the councillors who supported the decision
  - names of the councillors who opposed the decision.
- Council needs to ensure that councillors, and the Mayor or councillors who chair council meetings or committee meetings that deal with development matters, are aware of the requirements of the Act for a division and the recording of voting by councillors in respect of each development matter at the meeting.
- The general manager needs to put systems in place that can accurately record such divisions and voting by councillors and for inclusion in the minutes of council and committee meetings.

***Environmental Planning and Assessment Act changes***

The amendments to the Environmental Planning and Assessment Act in relation to political donations are provided by the Department of Planning under a separate circular and guideline.

***Political Donation and Electoral legislation enquiries***

The Electoral Commission of NSW has established a dedicated enquiry line to assist councillors, candidates for election and members of the public. In order to ensure that persons receive consistent information, any enquiries regarding disclosure of political donations returns and electoral legislation generally should be made to Elections Enquiries on telephone 1300 135 736.



**Garry Payne AM**  
**Director General**