NSW GOVERNMENT
Department of Planning

PLANNING circular

PLANNING SYSTEM

Development assessment and plan making

Circular	PS 08–009
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Related	PS 08–007

Disclosure of political donations and gifts—further information

This circular provides further information to clarify and supplement Planning Circular PS 08-007 in relation to the *Local Government and Planning Legislation Amendment (Political Donations) Act 2008.* This information is provided to clarify issues raised with the Department. Note this circular has been amended to change the commencement date. No other changes have been made.

Introduction

The following information outlines changes to the *Environmental Planning and Assessment Act 1979* (EP&A Act) made by the *Local Government and Planning Legislation Amendment (Political Donations) Act 2008*. These legislation changes introduce a new section 147 into the EP&A Act and will come into effect on 1 October 2008.

To assist councils in the implementation of the new requirements under the EP&A Act, the Department will be publishing a comprehensive guideline online at http://www.planning.nsw.gov.au/planning_reforms/donations.asp.

The Department will also issue information pamphlets to all councils for use at council inquiry counters.

Reportable political donations and gifts

The new legislation relates to the disclosure of reportable political donations for State elections and elected members of NSW Parliament, and local government elections and elected members of councils.

The new legislation also relates to disclosure of gifts made to local councillors or council employees.

The terms **reportable political donation** and **gift** are defined in Part 6 of the *Election Funding and Disclosures Act 1981*.

Note: Reportable political donations include those of or above $1000. A gift includes a gift of money or the provision of any other valuable thing or service for no consideration or inadequate consideration.

Relevant planning applications and submissions

The disclosure requirements under the new legislation are triggered by the making of relevant planning applications and relevant public submissions on such applications.

The term **relevant planning application** means:

- a formal request to the Minister, a council or the Director-General to initiate the making of an environmental planning instrument or development control plan in relation to development on a particular site, or
- a formal request to the Minister or the Director-General for development on a particular site to be made State significant development or declared a project to which Part 3A applies, or
- an application for approval of a concept plan or project under Part 3A (or for the modification of a concept plan or of the approval for a project), or
- an application for development consent under Part 4 (or for the modification of a development consent), or
- any other application or request under or for the purposes of the EP&A Act that is prescribed by the regulations as a relevant planning application,

but does not include:

- an application for (or for the modification of) a complying development certificate, or
- an application or request made by a public authority on its own behalf or made on behalf of a public authority, or

- any other application or request that is excluded from this definition by the regulations.

The term **relevant public submission** means a written submission made by a person objecting to or supporting a relevant planning application or any development that would be authorised by the granting of the application.

Making a planning application to a council

A person who makes a relevant planning application to a council is required to disclose the following reportable political donations and gifts (if any) made by any person with a financial interest in the application within the period commencing two years before the application is made and ending when the application is determined:

- all reportable political donations made to any local councillor of that council, and
- all gifts made to any local councillor or employee of that council.

Making a public submission to a council

A person who makes a relevant public submission to a council in relation to a relevant planning application made to the council is required to disclose the following reportable political donations and gifts (if any) made by the person making the submission or any associate of that person within the period commencing two years before the submission is made and ending when the application is determined:

- all reportable political donations made to any local councillor of that council, and
- all gifts made to any local councillor or employee of that council.

A reference to a reportable political donation made to a 'local councillor' includes a reference to a donation made at the time the person was a candidate for election to the council.

Making a planning application or a public submission to the Minister or Director-General

A person who makes a relevant planning application to the Minister or the Director-General is required to disclose all reportable political donations (if any) made within the relevant period by any person with a financial interest in the application.

In addition, a person who makes a relevant public submission to the Minister or the Director-General in relation to a relevant planning application is also required to disclose all reportable political donations (if any) made within the relevant period by the person making the submission or any associate of that person.

Note: 'Relevant period' is the period commencing two years before the application or submission is made and ending when the application is determined.

How and when to make a disclosure

If you are required to make a disclosure of a reportable political donation or gift under the EP&A Act, the disclosure is to be made:

- in, or in a statement accompanying, the relevant planning application or submission if the donation or gift is made before the application or submission is made, or
- if the donation or gift is made afterwards, in a statement of the person to whom the relevant planning application or submission was made within seven days after the donation or gift is made.

What information needs to be in a disclosure?

The information requirements of the disclosure are outlined in the EP&A Act under section 147(9) for political donations and section 147(10) for gifts.

The Department of Planning has prepared a Disclosure Statement Template which outlines the relevant information requirements for disclosure to a council.

A separate Disclosure Statement Template is also available for disclosures to the Minister or the Director-General of the Department of Planning.

These Disclosure Statement Templates are available at http://www.planning.nsw.gov.au/planning_reforms/donations.asp.

Further information

A copy of the *Local Government and Planning Legislation Amendment (Political Donations) Act 2008* is available on the NSW Parliamentary Counsel's Office website: http://www.legislation.nsw.gov.au.

Note: This and other Department of Planning circulars are published on the web at http://www.planning.nsw.gov.au/planningsystem/practicenotes

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Important note: This circular does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this circular.
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