



darebin climate action now
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Submission to the Senate Inquiry on the Commonwealth Electoral Amendment (Donation Reform and Other Measures) Bill 2020

Darebin Climate Action Now (DCAN) is a local not-for-profit organisation of City of Darebin residents concerned about global warming and our governments' inadequate responses to this threat. For over a decade we have educated ourselves and members of our local community about the causes of and appropriate responses to the climate emergency. We have more than 1000 members.

Our serious concerns about this Bill centre around fossil fuel and land development interests making large donations to political parties and acquiring undue influence in political decision-making. We believe this is a major factor in the continued drastically inadequate action on the climate emergency by the Federal Government. We call for:

- lowering the federal donations disclosure threshold to around A\$5,000, thus protecting the privacy of small donors but improving transparency and accountability, and ensuring all donations big enough to matter are on the public record;
- a requirement for political parties to aggregate multiple donations from the same donor, so big donors can't so easily hide; and
- a requirement for much quicker release of donations data (either in 'real time' or within, say, 3 weeks), so voters have information on who funds elections *during* the campaign.

These rule changes would bring Australia's federal political donations regime in line with most in most States and Territories and most OECD nations¹.

On related matters which would strengthen Australia's democracy (although somewhat broader in focus than the current Inquiry), we further support:

- withdrawal or revision of the Electoral Legislation (Miscellaneous Measures) Bill which would allow the Commonwealth to override stricter State legislation on donations; and
- a cap on expenditure during election campaigns and disclosure of access of lobbyists to federal Ministers.

Below we provide evidence to support these calls.

¹ https://read.oecd-ilibrary.org/governance/financing-democracy/increasing-transparency-and-accountability-through-disclosure-of-political-party-and-election-campaign-funding_9789264249455-5-en#page2

Large donations result in greater access

Research by well-respected bodies such as the Grattan Institute clearly show that large donors get more access to politicians and other policymakers and that their views are given more weight². The report on the Inquiry by the Select Committee into the Political Influence of Donations in 2017³ includes many examples of this.

For example, it cites the evidence from Dr Belinda Edwards' analysis of political donations data from the previous 10 years that there were strong indications of payments being made 'for access rather than being paid to support a political cause'. Further, she pointed out that it is illegal for businesses to make such payments to political parties if they do not expect the payments to advance the interests of their shareholders.

Indeed, the Minerals Council of Australia has openly admitted it makes donations to political parties to gain access to politicians⁴.

The awareness that some sectors and interests gain undue influence on decision makers through donations harms the public's trust and support for their elected representatives, and lessens public confidence and willingness to engage with democratic institutions. None of this is good for Australia's democracy, nor for good, evidence-based decision-making.

Fossil fuel companies are large donors

Australian Electoral Commission figures for 2018-19 show that donations from fossil fuel interests dominated the last federal election campaign. Its figures indicate that fossil fuel companies donated \$1,897,379 to the ALP, Liberal and National parties. This was up 48% from \$1,277,933 in 2017-18.

Research by Market Forces and the Centre for Public Integrity have found that the true figure could be very much higher than this. These independent thinktanks found big discrepancies between the amounts that the major political parties disclosed, and how much the fossil fuel companies claimed to have gifted. These discrepancies suggest woefully inadequate political disclosure regulations and 'dark money' donations.

Some companies are currently able to spend extraordinary amounts and disguise their largesse as normal political activity. Clive Palmer's company Mineralogy donated more than \$83 million to his United Australia Party (UAP). Palmer was seeking approval for the development of mammoth coal mines in Queensland's Galilee Basin via his coal company Waratah Coal, which also donated \$150,000 to the UAP. Palmer's campaign is widely credited with blocking the development of strong climate policies and preventing Labor from winning the election.

The timing of donations often appears to reflect the timing of decisions related to the donor. For example, the Australian Conservation Foundation found that Adani,

² <https://grattan.edu.au/report/whos-in-the-room/>

³ https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Political_Influence_of_Donations/PoliticalDonations/Report_1

⁴ <https://www.smh.com.au/politics/federal/we-pay-for-access-minerals-councils-admission-on-political-donations-20180117-h0jgpf.html>

which was the second-biggest fossil fuel donor in Australia, gave a donation of \$12,500 to the Liberal Party just a few days before the Federal Government ignored the concerns of scientists and rushed through approval of Adani's groundwater management plan. The next month, on the eve of the Federal election being called, Adani donated another \$200k to the Liberal and National parties⁵.

Transparency and accountability

Australians should be able to see who donates to political parties, but currently at the Federal level voters remain largely in the dark. Publishing information about larger donors would increase accountability and transparency, as voters would be able to see who political parties rely on for funding, and MPs would be more accountable for their subsequent decisions.

Under current Commonwealth regulations, it can take up to 19 months for donations to be made public. Further, only donations of more than \$13,800 are required to be disclosed, and there is no requirement to aggregate donations, which means an individual donor can make a series of donations below \$13,800 without disclosure. Donations can also be filtered through associated entities of the parties (such as unions, investment funds, and fundraising organisations). This makes money (and influence) even more difficult to track.

The Centre for Public Integrity estimated that more than \$100 million in donations were not disclosed in 2018-19, with the Liberal and National parties hiding about 40% of income and Labor hiding about 28% over two decades.

Without full and timely information, it is difficult for public scrutiny to provide a "check" on the possibility of donor influence.

The Federal Government is out-of-line with most Australian States and Territories

Most States and Territories have caps on donations, and much stronger provisions for accountability and transparency.

- In Victoria, donations of \$1,000 or more must be disclosed to the Victorian Electoral Commission within 21 days. Anonymous donations of \$1,000 or more are banned. Donations are capped at \$4,000 and public funding for election campaigns has been increased, reducing the reliance of parties on larger contributions.
- NSW's already extensive donations regime was tightened in 2019, and now requires political parties to disclose donations of \$1,000 or more within 21 days during election campaigns, and within six months otherwise.
- In the Queensland 2017 state election, there was "real time" disclosure: donations of \$1,000 or more were lodged through an online portal and made public within seven working days.

⁵ <https://www.marketforces.org.au/politicaldonations2020>;
<https://www.crikey.com.au/2020/02/03/fossil-fuel-donations-2019/>;
<https://www.theguardian.com/australia-news/2020/feb/11/more-than-100m-donated-to-political-parties-from-hidden-sources-in-election-year>

- In South Australia, parties are required to disclose donations of \$5,310 or more every seven days during an election period (and every six months otherwise).
- The disclosure threshold in Western Australia is \$2,300.
- In the ACT, parties must disclose donations over \$1,000, with disclosure during election years being between 7 days and 3 months, depending on proximity to polling day.
- In the Northern Territory, donations over \$1500 must be disclosed.

These laws mean voters can know, before they go to the ballot box, who is funding parties' election campaigns⁶.

Commonwealth over-riding state legislation on donations

We are also concerned about the Electoral Legislation (Miscellaneous Measures) Bill which was quietly introduced by the government on 11th June 2020 in response to the High Court decision in April 2019 ruling that the Commonwealth could not override state donation laws⁷. As noted by Prof Joo-Cheong Tham (The University of Melbourne), "These are highly significant provisions....It's particularly significant given many state and territory schemes are more robust than the federal scheme." George Williams (Dean, University of New South Wales Law School), noted that Australia needed "stricter disclosure and other controls on political donations" to prevent money influencing the political process "in ways that undermine the public interest", while ... "this bill goes in the opposite direction"⁸.

We call for this Bill to be withdrawn or re-written.

Expenditure caps during election campaigns and disclosure of lobbying to build trust and protect Australia's democracy

A cap on expenditure during election campaigns (such as the \$40,000 per candidate cap in the ACT) would provide further insurance against a small number of wealthy individuals and interests having undue influence. Political advertising expenditure in particular should be capped, especially when there is no requirement for the advertising to reflect the truth, especially when there remains no requirement for the advertising to reflect the truth.

State Ministers in NSW and Queensland publish their diaries to allow scrutiny of the access of special interests and lobbyists. Federal ministers should follow suit. An up-to-date list of all lobbyists with security passes to federal Parliament House should be made public.

These changes would increase the currently very low levels of trust in Australia's democratic processes. They would also improve the quality of political debate, as

⁶ <https://grattan.edu.au/news/time-for-the-federal-government-to-catch-up-on-political-donations-reform/>;
https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1819/Quick_Guides/ElectionFundingStates

⁷ https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bid=s1260

⁸ <https://www.theguardian.com/australia-news/2020/jun/17/jacqui-lambie-and-greens-criticise-bid-to-reimpose-weaker-political-donations-laws>

they would encourage policymakers to finally place appropriate weight on the scientific evidence that the climate crisis requires an emergency whole-of-government response.

We call for a cap on overall campaign expenditure, including political advertising expenditure, and full disclosure of access of lobbying to Ministers.

Prepared, on behalf of Darebin Climate Action, by:

Professor Ann Sanson
Convenor, Darebin Climate Action Now

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