

Statement

By Chairperson, NSW Electoral Commission

OVERVIEW

In NSW, a political party's eligibility for public funding is conditional upon the party having disclosed political donations received and made, and electoral expenditure incurred during each disclosure period (called a "requisite declaration"). If a party has failed to lodge a requisite declaration for a past period, it is ineligible for public funding.

It was through the Independent Commission Against Corruption's (ICAC's) 2014 public hearings in Operation Spicer that the NSW Electoral Commission (NSWEC) became aware of the NSW Liberal Party's failure to disclose a series of political donations received by the party in 2010 and 2011 in the lead up to the State general election. Many of these donations had been channelled through the Free Enterprise Foundation.

On 23 March 2016 the NSWEC determined that the NSW Liberal Party was ineligible for public funding because it had failed to lodge a requisite declaration for the 2010-11 disclosure period. The amount withheld was almost AU\$4.4m in election and administrative funding.

Since that date, officers of the party have taken steps to ensure that the party made full and proper disclosure of political donations for the relevant period. The current party agent of the NSW Liberal Party, Mr Bruce Walton, has made a number of declarations of disclosure to the NSWEC, the final declaration being received on 19 September 2016.

Based on the evidence before it, including the transcripts and final report of ICAC: Operation Spicer, as well as evidence and information obtained through investigations conducted by the NSWEC, the NSWEC has satisfied itself that the NSW Liberal Party has now made an appropriate requisite declaration for the 2010-11 disclosure period.

Investigations conducted by inspectors of the NSWEC have revealed that some of the undisclosed donations received by the NSW Liberal Party and a number of its elected members in 2010 and 2011 were unlawful donations. These include donations from prohibited donors (including property developers), anonymous donations and donations that exceeded the cap. In order to protect its position, the NSWEC commenced various proceedings for the recovery of those unlawful donations. A determination has now been made to exercise the NSWEC's statutory power to offset the value of those donations against public funding otherwise due to the NSW Liberal Party.

On 22 September 2016, the NSWEC determined the NSW Liberal Party to be eligible for public funding. The NSW Liberal Party has two claims for public funding that are outstanding, totalling about AU\$4.4 million.

IN MORE DETAIL

NSW Electoral Commission recovers unlawful donations received by the NSW Liberal Party

On 23 March 2016, the NSW Electoral Commission (NSWEC) determined to withhold almost AU\$4.4 million in administrative and election funding from the Liberal Party of Australia, NSW Division (NSW Liberal Party) due to the party's failure to disclose past donations. The donations were primarily made to the party by donors via the Free Enterprise Foundation in the 2010-11 disclosure period.

On 22 September 2016 the NSWEC determined that a number of these and other undisclosed donations were unlawful and deducted the value of the unlawful donations from the amount of public funding payable to the party.

Investigation of unlawful donations

The *Election Funding, Expenditure and Disclosures Act 1981* (the EFED Act) prescribes the rules in NSW for political donations and expenditure and their financial management by and on behalf of parties, elected members, candidates, groups and third-party campaigners. The EFED Act makes it unlawful to make and accept donations under certain circumstances.

Since 10 July 2008, it has been unlawful for a person to accept indirect campaign contributions that are valued over AU\$1,000.

Since 14 December 2009, it has been unlawful to accept a donation from a property developer or a close associate of a property developer (also known as a prohibited donor), or to accept a donation made on behalf of a property developer. From 1 January 2011, there have been three additional categories of prohibited donors: liquor, gambling and tobacco entities and their close associates.

Since 1 January 2011, it has been unlawful to accept political donations made to a party, elected member, group, candidate or third-party campaigner if the donation exceeds the applicable cap on political donations (caps are adjusted for inflation on an annual basis). An exception to the rule on caps is where the donations are to be paid into an account kept exclusively for federal election campaign purposes.

The NSWEC's investigators conducted a preliminary review of all the possibly unlawful political donations and indirect campaign contributions referred to in the publicly available material from the ICAC's Operation Spicer Inquiry. After the preliminary review, decisions were made as to which matters were to be the subject of further investigation. The larger donations, and those that were closer to the limitation period for seeking recovery, were given priority. A resourcing decision was taken not to pursue all suspected unlawful donations so as to maximise the efficiency of applying taxpayer dollars to the task.

As the investigation progressed, decisions were taken to discontinue some matters where it was thought that elements of the cause of action could not be proven to the requisite standard or where evidence did not support the assertion that the donation was from a prohibited donor or was an indirect campaign contribution. The definition of prohibited donor under the EFED Act is complex and it is the

case that a person or entity could have been involved in property development but is not a property developer within the strict definition under the EFED Act.

Inability to launch prosecutions

The EFED Act makes it an offence to make or accept a prohibited donation. However, the limitation period for initiating criminal proceedings was three years in 2010-11. In 2014, the Parliament enlarged the limitation period for prosecutions to ten years, but this was done prospectively only.

As ICAC observed in its report, this meant that the many possible breaches of the EFED Act that Operation Spicer brought to light were only discovered after it was too late for any prosecutions to be launched.

Recovery of unlawful donations

If a person makes or accepts an unlawful political donation, the NSWEC is empowered under the EFED Act to recover the value of the donation, or double that amount if the recipient knows it was unlawful, as a debt due to the State. A person can voluntarily pay the amount of an unlawful donation to the State, the NSWEC can commence civil proceedings to recover the amount, or the amount can be deducted from a public funding payment due to be paid by the NSWEC to a party or candidate.

All of the evidence relating to these donations was explored during ICAC's Operation Spicer and is discussed in that Commission's Report dated 30 August 2016. Based on information generated during ICAC's Operation Spicer and further evidence obtained through NSWEC investigations, it has been determined that the NSW Liberal Party accepted a number of unlawful donations during the 2010-11 disclosure period, including donations made by prohibited donors, donations in excess of the cap on political donations and indirect campaign contributions.

The NSWEC's decision to limit recovery action to the value of prohibited donations received by the party, and not to pursue double recovery, has been based on a number of factors including difficulties of proof in some instances, likely additional Limitation Act hurdles and the belief that the public interest has been best served by the action taken, its resolution and the importance of being able to provide prompt educative guidance to the public and all political parties.

NSW Liberal Party discloses donations received for the 2010-11 period

The NSW Liberal Party has now disclosed the previously undisclosed reportable donations received by the party during the 2010-11 disclosure period, in accordance with NSW election funding laws.

In February 2016, the NSWEC advised the NSW Liberal Party that, based on information that had become available through the ICAC's recent investigations and further evidence obtained by the NSWEC, the NSW Liberal Party had been in receipt of reportable donations in the 2010-11 disclosure period that had not been disclosed.

The NSWEC's decision to withhold public funding from the NSW Liberal Party was based on the party's failure to disclose the reportable donations.

On 27 April 2016 the NSW Liberal Party provided the NSWEC with an amended declaration for the 2010-11 disclosure period. The amended declaration was invalid due to a technical problem with the audit certificate that accompanied this declaration.

On 26 May 2016, the NSWEC received an amended declaration and valid auditor's certificate from the NSW Liberal Party. The amended declaration has been published on the NSWEC's website; however, the NSWEC remained unsatisfied that the NSW Liberal Party had completely and accurately disclosed all reportable political donations for the 2010-11 disclosure period. In particular, the disclosure of a number of political donations did not include details of the identity of the donors.

In August 2016, officers of the NSWEC agency met with officials of the NSW Liberal Party and the party's legal representative, at the party's request, to provide guidance on the requirements for a further amended declaration. The NSWEC reiterated that disclosure must be complete before the party would be eligible for public funding and explained that, once eligible, the NSWEC would offset approximately AU\$600,000 from the payment to reflect the value of the unlawful donations received by the party.

On 19 September 2016, the NSW Liberal Party submitted an amended declaration which included disclosure of a number of reportable donations previously undisclosed. The amended declaration is made by the NSW Liberal Party's current party agent who was not the party agent at the time the donations were accepted or the original disclosure was made. This amended declaration has been accepted by the NSWEC and has been published to the NSWEC's website.

The NSWEC has determined the NSW Liberal Party is now eligible to receive public funding payments and has authorised payments to be made totalling \$3,802,830.80. The NSW Liberal Party was entitled to payments under the following Funds:

1. Election Campaigns Fund final payment: \$2,957,872.80
2. Administration Fund fourth quarter payment 2015: \$1,431,950.00

The value of the unlawful donations, being \$586,992.00, has been deducted from the Election Campaigns Fund payment.

Definition of donations

It is important to note that not all donations to the NSW Liberal Party made through the Free Enterprise Foundation were unlawful donations and therefore recoverable. In this context, there is a distinction between "reportable donations" and "unlawful donations".

A number of donations were not unlawful but should have been disclosed to the NSWEC because they were reportable donations over AU\$1,000. The NSWEC took action to withhold party funding until a requisite declaration was made by the party for the donations received in the 2010-11 disclosure period. In addition, AU\$112,000 in donations to the NSW Liberal Party made via the Free Enterprise Foundation were used exclusively for federal election campaign purposes and therefore are not subject to any

action by the NSWEC. For more information, refer to the Statement by the Chairperson, NSWEC dated 23 March 2016 and the accompanying Statement of Facts on our website at:

[http://www.elections.nsw.gov.au/data/assets/pdf_file/0004/214672/23 March 2016 Liberal Party of Australia NSW Division ineligible for further public funding and supporting information.pdf](http://www.elections.nsw.gov.au/data/assets/pdf_file/0004/214672/23_March_2016_Liberal_Party_of_Australia_NSW_Division_ineligible_for_further_public_funding_and_supporting_information.pdf)

ABOUT THE NSW ELECTORAL COMMISSION

In December 2014, the three member Electoral Commission was constituted. It is separate to the agency led by the Electoral Commissioner. The Commission is an independent, statutory authority. It approves public funding to the political parties and others and enforces the provisions of three NSW Acts. These provisions govern electoral funding, expenditure and disclosures, the conduct of State elections and the lobbying of government officials. The Commission's Chairperson is the Hon Keith Mason AC QC, a former President of the NSW Court of Appeal (1997 to 2008). Information about this independent Commission's work can view viewed at:

www.elections.nsw.gov.au/about_us/work_of_the_commission.

More information about funding and disclosure laws is available at: www.elections.nsw.gov.au/fd

LM2016/174

Mr Bruce Walton
Party Agent
Liberal Party of Australia – NSW Division
Level 9, 140 William Street
EAST SYDNEY NSW 2010
Also by email: Bruce.Walton@nsw.liberal.org.au

CC: Mr Chris Stone
Ms Michelle Harpur

22 September 2016

Dear Mr Walton

Amended Declaration for the 2010/11 disclosure period and Election Campaigns Fund and Administration Fund payments

I refer to your letter of 19 September 2016 enclosing an amended declaration on behalf of the Liberal Party for the 2010/11 disclosure period.

The NSW Electoral Commission has accepted the amended declaration and has determined that the party is eligible to receive public funding.

The party has existing public funding claims as follows:

1. Election Campaigns Fund final payment - \$2,957,872.80
2. Administration Fund fourth quarter 2015 payment - \$1,431,950.00

As advised in my letter to Ms Harpur dated 16 September 2016, the Commission will deduct the value of unlawful donations received during the 2010/11 period from the amount payable to the party. Accordingly, \$586,992.00 will be deducted from the Election Campaigns Fund final payment.

A Statement by the Commission's Chairperson concerning developments in this matter since his statement of 23 March 2016 will be published to the Commission's website along with correspondence between the parties as per your request.

Yours sincerely



Alison Byrne
Executive Director
On behalf of the NSW Electoral Commission

LIBERAL PARTY OF AUSTRALIA

NEW SOUTH WALES DIVISION

State Director

19 September 2016

Ms Alison Byrne
Executive Director
NSW Electoral Commission
25/201 Kent Street
SYDNEY NSW 2000

Dear Ms Byrne


Amendment to the 2010/11 Declaration of the Liberal Party of Australia (NSW Division)

We refer to your correspondence of 16 September 2016 to our lawyer, Ms Michelle Harpur of Harpur Phillips.

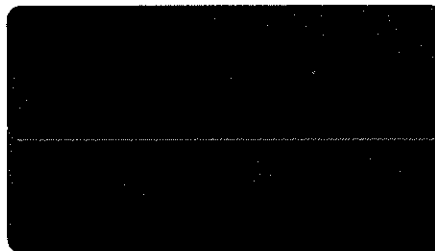
Please find enclosed an Amended Disclosure, accompanied by a declaration in the form proposed in Ms Harpur's letter of 7 September 2016.

Please let me know when the Commission has passed the resolution confirming the Party's eligibility for public funding, and approving the payments under the Elections Campaign Fund and Administration Fund less the offset.

Yours sincerely



Chris Stone
State Director



Bruce Walton
Party Agent


LIBERAL PARTY OF AUSTRALIA

NEW SOUTH WALES DIVISION

AMENDED DISCLOSURE DECLARATION BY THE PARTY AGENT

I, Bruce Walton, state that:

- a) in relation to 2010/2011, the following donations were received from:
 - i. Vincent Heufel in the sum of \$100,000; and
 - ii. Harmony Hill Pty Ltd in the sum of \$10,000.
- b) at the time the donations were made, the Party had no notice that the donations were made by anyone other than the person making the donation;
- c) the Party Agent has since been made aware that there was evidence given at an ICAC inquiry in connection with Operation Spicer which was the subject of a report delivered on 30 August 2016, which suggested that:
 - i. the donation received from Vincent Heufel was in fact donated by Mambare Pty Ltd; and
 - ii. the donation received from Harmony Hill Pty Ltd was in fact donated by Jeff McCloy.
- d) the State Director has sought information from Mr Heufel and Mr Baumann on behalf of Mambare Pty Limited in order to confirm or otherwise the source of money which was the subject of the donation. Mr Heufel and Mr Baumann on behalf of Mambare Pty Limited have declined to provide information. Mr Heufel has stated that he was the source of the donation;
- e) the State Director and Party Agent have also attempted to contact the officers of Harmony Hill Pty Limited to confirm or otherwise the source of the money the subject of the donation made but without success;
- f) the external auditors of the Party have advised the Party Agent, that it cannot provide an audit of the donations from Mr Heufel and Harmony Hill Pty Ltd other than what is set out in the Party records as to the source of the donations; and
- g) the Party Agent accepts that inconsistencies exist between the donations that were made to the Party by Mr Heufel and Harmony Hill Pty Ltd and some of the evidence given at ICAC in relation to the donations. However, he is not in a position to resolve those inconsistencies.


Bruce Walton, Party Agent

17th September 2016

Amended Disclosure for a Political Party

The information on this form is collected under the *Election Funding, Expenditure and Disclosures Act 1981* and will be made publicly available. Please refer to the relevant funding and disclosure guide available on the New South Wales Electoral Commission's (NSWEC) website (www.elections.nsw.gov.au) when completing this form.

Disclosure Details

NAME OF POLITICAL PARTY ON WHOSE BEHALF THIS AMENDED DISCLOSURE IS MADE:

Liberal Party of Australia, NSW Division

RELEVANT DISCLOSURE PERIOD:

1 July 2010 to 30 June 2011

Declaration – this must be completed by the Party Agent

I, Bruce Walton

INSERT PARTY AGENT NAME

state that the amendments supplied were omitted or incorrectly declared in the original disclosure of political donations and electoral expenditure lodged with the NSWEC and that the donations and or expenditure specified in this amendment were incurred for the above named political party during the disclosure period.

SIGNATURE OF PARTY AGENT

DATE

Certificate of a Registered Company Auditor (to be completed by the Auditor)

I, Refer attached documents

certify that

AUDITOR FULL NAME

- a) I was given full and free access at all reasonable times to all accounts and documents of the agent responsible for lodging the declaration and of the party relating directly or indirectly to any matter required to be disclosed under Part 6 of the *Election Funding, Expenditure and Disclosures Act 1981*;
- b) I duly examined such of those accounts and documents as I considered material for the purposes of giving this certificate;
- c) I received all information and explanations that I asked with respect to any matter required to be set out in the declaration, subject to the qualifications (if any) specified in this certificate; and
- d) I have no reason to think that any statement in the declaration is not correct.

AUDITOR'S SIGNATURE

REGISTRATION NO.

DATE

OFFICE USE ONLY

RECEIVED BY

FILE NO

FADMS DISCLOSURE RECORD NO

Amended Disclosure for a Political Party

Political Party Name: Liberal Party of Australia, NSW Division

Part C. Fundraising Functions or Ventures

C1. Event details of fundraising function(s) or venture(s)

If more space is required please attach an additional list in the same format

Date(s) of Function(s) or Venture(s)	Description or Name of Function(s) or Venture(s)	Proceeds (\$)	Net (N) or Gross (G)	Purpose (State/LG/Admin)	Legend E, O, A or S
TOTAL		\$ 0.00			

C2. Small Political Donations received at fundraising function(s) or venture(s)

If more space is required please attach an additional list in the same format

Date(s) of Function(s) or Venture(s)	Description or Name of Function(s) or Venture(s)	Total Number of Small Donations	Total Value of Small Donations (\$)	Purpose (State/LG/Admin)	Legend E, O, A or S
TOTAL		0	\$ 0.00		

C3. Reportable Political Donations received at fundraising function(s) or venture(s)

If more space is required please attach an additional list in the same format

Date Donation was made	Name of Individual eg. Surname, Given Name or Registered Business Name of Entity	Enrolled Address of Individual or Registered Official Address of Entity	Registered Business Number ie ABN/ACN (Entity Only)	Amount or Value of Donation (\$)	Receipt No	Gift Type (Monetary/ Non-Monetary)	Description or Name of Function or Venture(s)	Legend E, O, A or S
TOTAL				\$ 0.00				

Amended Disclosure for a Political Party

Political Party Name: Liberal Party of Australia, NSW Division

Part D. Reportable Loans

If more space is required please attach an additional list in the same format

Date Loan was made	Name of Lender eg. Surname, Given Name or Registered Business Name of Entity	Enrolled Address of Individual or Registered Business Address of Entity	Loan Amount (\$)	Legend E, O, A or S
TOTAL			\$ 0.00	

Part E. Annual Party Membership, Affiliation or Other Subscriptions

If more space is required please attach an additional list in the same format

Party Membership, Affiliation or Other Subscription Rate (\$)	Number of Individuals who paid each rate	Total amount received for each rate (\$)	Payment Type (Membership, Affiliation or Other Subscription)	Legend E, O, A or S
TOTAL		0	\$ 0.00	

Part F. Electoral Communication Expenditure

F1. Advertisements in radio, television, internet, cinemas, newspapers, billboards, posters, brochures, how-to-vote cards and other election material

If more space is required please attach an additional list in the same format

Expenditure Incurred from Date	Expenditure Incurred to Date	Name of Supplier	Product or Service Provided	Amount Incl GST (\$)	Invoice No.	Legend E, O, A or S
TOTAL				\$ 0.00		

11/17/09

Amended Disclosure for a Political Party

Political Party Name: Liberal Party of Australia, NSW Division

F2. Production and Distribution of Election Material

If more space is required please attach an additional list in the same format

Expenditure Incurred from Date	Expenditure Incurred to Date	Name of Supplier	Product or Service Provided	Amount Incl GST (\$)	Invoice No.	Legend E, O, A or S
TOTAL				\$ 0.00		

F3. Internet, Telecommunications, Stationery and Postage

If more space is required please attach an additional list in the same format

Expenditure Incurred from Date	Expenditure Incurred to Date	Name of Supplier	Product or Service Provided	Amount Incl GST (\$)	Invoice No.	Legend E, O, A or S
TOTAL				\$ 0.00		

F4. Employing Staff engaged in election campaigns

If more space is required please attach an additional list in the same format

Expenditure Incurred from Date	Expenditure Incurred to Date	Category of Staff	Services Provided	Amount Incl GST (\$)	Legend E, O, A or S
TOTAL				\$ 0.00	

Amended Disclosure for a Political Party

Political Party Name: Liberal Party of Australia, NSW Division

Part H. Small Political Donations made by the Party

Total number of small donations made	Total Value	Legend E, O, A or S
	\$	

Part I. Reportable Political Donations made by the Party

Date Donation was made	Name of NSW Candidate, Group of Candidates, Local Government Councillor, Member of Parliament, Political Party or Third-Party Campaigner (eg Surname, Given Name or Entity Name)	Enrolled Address of Individual or Registered Official Address of Party/ Third-Party Campaigner	Business Number eg. ABN/ACN	Amount or Value of Donations (\$)	Gift Type (Monetary or Non-Monetary)	Legend E, O, A or S
TOTAL				\$ 0.00		

If more space is required please attach an additional list in the same format



Independent audit report to the members of The Liberal Party of Australia, New South Wales Division

We have audited the accompanying 'EF704 Amended Disclosure for a Political Party' of the Liberal Party of Australia (New South Wales Division) ("the Party") dated 19 September 2016, for the period 1 July 2010 to 30 June 2011 ("the Amended Disclosure"). The Amended Disclosure has been prepared by Mr Bruce Walton, agent for The Liberal Party of Australia, New South Wales Division ("the Party Agent"), as permitted under Section 88(3) and 96M(1) of the *Election Funding, Expenditure and Disclosures Act of 1981 (NSW) No. 78* ("the Act").

Party Agent's responsibility for the Amended Disclosure

The Party Agent is responsible for the preparation and presentation of the Amended Disclosure in accordance with Section 88 through 95 and 96M(1) of the Act, pursuant to the definitions contained in Section 84 through 87. The Party Agent is responsible for determining the categorisation of political donations and electoral expenditure in accordance with the reportable categories defined in Section 92 through 93.

The Amended Disclosure has been prepared for the purposes of the Party Agent responding to correspondence from the New South Wales Electoral Commission ("the NSWEC") issued on 23 March 2016, 11 May 2016, 12 May 2016 and 9 September 2016. This correspondence outlines the view of the NSWEC that certain amounts were not reported accurately as to the source of the donation in either the original Declaration of the Disclosure of Political Donations and Electoral Expenditure for a Political Party, dated 26 September 2011 ("Original Reporting"), or the Amendment to the Declaration of the EF679 Disclosure of Political Donations and Electoral Expenditure for a Political Party, dated 2 February 2015, 3 March 2015 and 26 May 2016 ("Previous Amended Reporting"). It is the conclusion of the NSWEC that the Party Agent should consider the source of donations used as evidence in the course of hearings conducted by the Independent Commission Against Corruption ("ICAC") when reportable political donations to the Party are included in the Amended Disclosure.

The Amended Disclosure has been prepared as a supplement to both the Original Reporting and Previous Amended Reporting, specific to the request of the NSWEC and is to be read in conjunction with both the Original Reporting and Previous Amended Reporting to fulfil the Party obligations under Section 84 through 87 of the Act.

The Party Agents' responsibility also includes such internal control as the Party Agent determines necessary to enable the preparation and presentation of an Amended Disclosure that is free from material misstatement whether due to fraud or error.

Auditor's responsibility

Our responsibility is to express an opinion on the Amended Disclosure based on our audit. We conducted our audit in accordance with Australian Auditing Standard 805, pursuant to the audit certificate obligations of Section 96K(1) and 96M(2) of the Act. These Auditing Standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the Amended Disclosure is free from material misstatement. We have also had regard to the determinations made by the NSWEC for the preparation and presentation of the Amended Disclosure, in particular the inclusion of certain amounts based on evidence given in the course of hearings conducted by the Independent Commission Against Corruption. Our audit has been completed on this basis.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the Amended Disclosure. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial report, whether due to fraud or error.



In making risk assessments, the auditor considers internal control relevant to the Party Agent's preparation and presentation of the Amended Disclosure in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Party Agent's internal control. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of accounting estimates made by the Party Agent, as well as evaluating the overall presentation of the Amended Disclosure. These procedures have been undertaken to form an opinion whether, in all material respects, the Amended Disclosure is presented in accordance with Section 88 through 95 and 96M(1) of the Act, so as to present a view which is consistent with our understanding of the Party's political donations and electoral expenditure.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Independence

In conducting our audit, we have complied with the independence requirements of the Accounting Professional and Ethical Standards Board.

Basis for Qualified Opinion

It is not always practicable or possible for the Party Agent to establish effective controls over the completeness of the collection of political donations prior to entry into its financial records. Accordingly, it has been difficult for the Party Agent to establish effective controls over the completeness of information obtained from Party Units of the Party, for the aggregation of political donations. As the evidence available to us regarding the completeness of political donations was limited, our audit procedures with respect to political donations had to be restricted to the amounts recorded in the financial records. Accordingly, we are unable to obtain sufficient evidence that the political donations disclosed within the Amended Disclosure are complete.

It has been difficult for the Party Agent to establish effective controls and procedures over the completeness of electoral expenditure prior to entry into its financial records. Accordingly, we have been unable to obtain sufficient evidence that the electoral expenditure disclosed within the Amended Disclosure is complete.

Political donations received and electoral expenditure incurred by Party Units of the Party, are included within the Amended Disclosure, where the Party Units to The Party have registered political donations and electoral expenditure with The Party Agent. We have been unable to obtain sufficient evidence over the existence, completeness and accuracy of these political donations and electoral expenditure amounts and related disclosure information.

In addition, we have been unable to obtain evidence supporting the source of the donations reported in respect of Mambare Pty Ltd and Jeff McCloy from the accounts and documents of the Party or the Party Agent responsible for lodging the Amended Disclosure.

Had we been able to obtain the information we require, matters might have come to our attention indicating that adjustments might be necessary to the Amended Disclosure.

Qualified Auditor's opinion

Except for the possible effects or adjustments to the Amended Disclosure that we might have become aware of had it not been for the limitations on our audit procedures described in the preceding Basis for Qualified Opinion paragraph, in our opinion, the EF704 Amended Disclosure for a Political Party presents, in all material respects, the political donations and electoral expenditures of the Party for the period 1 July 2010 to 30 June 2011 in accordance with the disclosure requirements of Part 6 of the



Election Funding, Expenditure and Disclosures Act of 1981 (NSW) No. 78, as determined by the NSWEC in correspondence received on 23 March 2016.

In carrying out our audit procedures, we note the following matters:

- 1 We were given full and free access at all reasonable times to all accounts and documents of the Party Agent responsible for lodging the Amended Disclosure, The Liberal Party of Australia, New South Wales Division, relating directly or indirectly to any matter required to be disclosure under Part 6 of the *Election Funding, Expenditure and Disclosures Act 1981 (NSW) No.78*;
- 2 We duly examined such of those accounts and documents as we considered material for the purposes of giving this report;
- 3 We received all information and explanations that we asked for with respect to any matter required to be set out in the Amended Disclosure, subject to the qualifications outlined in the Basis for Qualified Opinion paragraph; and
- 4 Except for the possible effects or adjustments to the Amended Disclosure that we might have become aware of had it not been for the limitations on our audit procedures described in the preceding Basis for Qualified Opinion paragraph, we have no reason to think that any statement in the declaration is not correct.

Associated Reporting

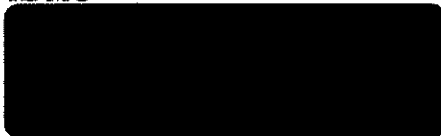
Our report is to be read in conjunction with our Independent audit reports to the members of the Liberal Party of Australia (New South Wales Division) on both the Original Reporting, signed on 29 September 2011, and Previous Amended Reporting, signed on 2 February 2015, 3 March 2015, and 26 May 2016, respectively.

Restrictions on Distribution

Our report is intended solely for the Liberal Party of Australia (New South Wales Division) and the New South Wales Electoral Commission and should not be distributed to or used by parties other than the Party Agent and the New South Wales Electoral Commission. We disclaim any assumption of responsibility for any reliance on this report, or on the Amended Disclosure to which it relates, to any person other than the Party Agent of The Liberal Party of Australia, New South Wales Division and the New South Wales Electoral Commission or for any other purpose than that for which it was prepared.



KPMG



John Wigglesworth
Partner

Auditor registration number: 203423

Sydney

19 September 2016

FDC2016/137

Ms Michelle Harpur
Principal
Harpur Phillips
Suite 1.03
55 Miller Street
PYRMONT NSW 2009

16 September 2016

Dear Michelle

Amendment to the 2010/11 Declaration of the Liberal Party of Australia (NSW Division)

I refer to your letter of 14 September 2016.

Amended disclosure and declaration

The Commission understands from previous discussions and correspondence with Messrs Stone and Walton and Ms Harpur that Mr Walton has no direct knowledge of donations received by the party during the 2010/11 disclosure period. It follows that the facts stated in paragraphs (a) and (b) of the declaration proposed in your letter dated 7 September 2016 are outside Mr Walton's knowledge and would necessarily come from information provided to him by officers or employees of the party.

Notwithstanding the above, if Mr Walton can provide a declaration including terms (a) to (g), the Commission will accept such a declaration in the form proposed in your letter dated 7 September 2016.

Qualified Audit Opinion

As advised in our meeting of 16 August 2016 and in subsequent correspondence, the Commission will accept a qualified audit opinion.

For your assistance we note the following issues with the draft qualified audit opinion provided with your letter dated 14 September 2016:

1. Paragraph 4 of the *Basis for Qualified Opinion*, refers to "Heufel and McCloy" donations. Considering the reference to the auditor's inability to obtain evidence supporting the source of donations and reference to "McCloy", we question whether the reference here should be to "Mambare Pty Ltd" rather than "Heufel".

2. In paragraph 2 of the *Party Agent's Responsibility for the Amended Disclosure*, "Previous Amended Reporting" does not include the party's most recent amendment dated 26 May 2016 (or prior amendments apart from that dated 2 February 2015).

Sections 70(1) and 97L(1) of the EFED Act

The Commission takes a different construction of sections 70(1) and 97L(1) of the EFED Act and its power to make determinations concerning declarations.

With respect to Messrs Newlinds SC and Moses SC, if their construction of sections 70(1) and 97L(1) was adopted, and if any errors in declarations that bear directly on lawfulness of donations and/or entitlement to payments were to be addressed discretely rather than triggering total ineligibility for payment, the Commission would be required to pay public funding to a party that lodged a declaration that included blatantly erroneous disclosures. It is highly unlikely that the legislature would have intended such an impractical outcome.

Payment of Claims for Public Funding

We thank you for your clarification that the Liberal Party agrees to the offset of the value of unlawful donations from its public funding payments. We note that in previous correspondence by and on behalf of the party, including your letter of 18 March 2016 (paragraph 12) and Mr Nutt's letter of 5 April 2016, the offer for the Commission to withhold the value of unlawful donations appeared to be conditional upon subsequent "*resolution of the matters in issue*".

We note the party's acceptance of the offset; however, must disagree that the Commission has ever taken the position that it had no discretion to offset those monies without a court order that the donations were unlawful. That has never been the Commission's position. If it was your intention to advise that the party's position is that the Commission requires a court order that the donations were unlawful, this is the first occasion that the party has made such representations to the Commission.

In our letter to Messrs Walton and Stone dated 12 May 2016 at page 5, the Commission invited the party to provide information or make any submission in relation to the categorisation of prohibited donations making up the offset. Again in our meeting of 16 August 2016, Ms Byrne advised that the Commission would consider any arguments put forward on behalf of the party in relation to the (then) \$600,000 prohibited donations. This offer implicitly extends to the party making submissions on the Commission's intention to offset the value of unlawful donations from the party's public funding payments.

The Commission will offset \$586,992.00 from the party's public funding payments. This represents the donations outlined in our letter of 12 May 2016, minus the \$3,000 Vaste donation and the \$10,000 donation from Jeffrey McCloy which has, since our last correspondence, been recovered from Dr Andrew Cornwell.

Statements of Claim

We will instruct the Crown Solicitor's Office to discontinue proceedings once the offset has been made from the party's public funding payments.

Publication

The Commission will publish correspondence and advice as requested.

Next Steps

Subject to receiving the declaration from Mr Walton, I will circulate to the Commission a formal resolution finding the Liberal Party eligible for public funding and approving payments under the Election Campaigns Fund and Administration Fund excluding the offset.

Yours sincerely



 Alison Byrne
Executive Director
For and on behalf of the NSW Electoral Commission

14 September 2016

Alison Byrne
Executive Director
NSW Electoral Commission
25/201 Kent Street
SYDNEY NSW 2000

Dear Alison

Party Declaration for 2010/11 and Disclosure of Donations made by Vincent Heufel and Harmony Hill Pty Limited

We refer to your letter dated 9 September 2016.

Amended Disclosure and Declaration

The Commission appears to have missed the point of the Party Agent's concerns about making the declaration if an Amended Disclosure was to be lodged in relation to the Heufel and Harmony Hill donations.

The Party Agent has no direct knowledge of the events which may or may not have occurred in relation to these donations, nor do any officers or employees of the Party. The form of declaration we suggested in our letter of 7 September 2016 made that clear.

The paragraph you require to be inserted at the end of our suggested declaration is not only at odds with paragraphs (a) to (g), but is factually incorrect. The Party Agent cannot give the form of the declaration that you are now suggesting he provide. This view is confirmed in a Memorandum of Advice of Arthur Moses SC dated 13 September 2016 which we enclose.

If an Amended Disclosure is to be lodged, the declaration will be in the form we proposed in our letter of 7 September 2016.

Qualified Audit Opinion

Although your letter does not address the issue of the Audit Opinion, we assume that in accepting paragraphs (a) to (g) of the proposed declaration, the Commission accepts that the Party's auditors may only issue a Qualified Audit Opinion.

We reiterate that KPMG have advised they cannot audit the donations beyond what is in the Party's records, despite your assertions concerning their ability to rely on the ICAC evidence. Attached is the form of the Independent Audit Report which KPMG have advised they can issue if an Amended Disclosure is lodged concerning the Heufel and Harmony Hill donations.

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<u>Plymouth</u> NSW 2009	M	0412 310 052
ABN 23134244727	W	harpurphillips.com.au

Sections 70(1) and 97L(1) of the EFED Act.

We note your comments concerning sections 110A and 111 of the Act, and clause 33 of the regulations. Neither of those sections, nor the regulation to which you refer, gives the Commission the power to make determinations or otherwise as to the accuracy of the declarations. Indeed, section 111 of the Act is exactly to our point, in that whether or not there has been a breach of the Act giving rise to an offence is a matter for determination by the Court, not the Commission.

Payment of Claims for Public Funding

Notwithstanding that the Party Agent cannot give a declaration in the form you require, we reiterate that the Party considers that the NSWEC is not entitled to withhold the public funding under sections 70(1) and 97L(1) of the EFED Act, and is obliged to provide it for the reasons set out in the Advices from Robert Newlinds SC. The Advice from Arthur Moses SC also confirms that the NSWEC is not entitled to withhold the public funding and its conduct in doing so is unlawful.

In the Response attached to the letter from Swaab Attorneys dated 18 March 2016, the Party suggested that the Commission withhold the amount of \$693,000, representing the total monies received from the Free Enterprise Foundation, but pay the balance of the Funding. This in principle offer has been reiterated a number of times since then, although the amount the Party has suggested be withheld has varied in line with correspondence received from the Commission setting out the donations it considers to have been unlawful.

Your letter advises that the Commission will offset the value of unlawful donations from the public funding otherwise payable. It asserts that "*the Commission has received no response or representation on behalf of the Party in relation to the offset*". With the greatest respect, the Party has never been asked to make any representation in relation to an offset. Indeed, the Commission has always taken the position that it had no discretion to offset those monies without a court order that the donations were unlawful. This was confirmed most recently in our meeting on 16 August 2016.

So that there is no doubt about the Party's position, the Party is agreeable to unlawful donations being offset against the public funding. We refer in that regard to paragraph 11 of the Party's response dated 18 March 2016 in which it acknowledged the ability of the Commission to offset the value of unlawful donations against the public funding. That this is the case is also implicit in every offer that has been made since 18 March 2016 that the funds be withheld.

However, as we have noted above, the aggregate amount which the Commission considers represents unlawful donations has changed over time. Your letter of 12 May 2016 advised that the Commission considered the Party had received unlawful donations in the amount of \$599,992.00. The Statements of Claim which you provided to us on 16 August 2016 claimed a total amount of \$536,992.00, which included a donation from Vaste Developments for \$3,000, which we gather you now concede was in connection with the Federal election. The Commission now claims \$596,992.00. We assume this amount represents the donations outlined in your letter of 12 May 2016, excluding the Vaste Developments donation, but ask that you confirm that to be the case. If so, the Party is agreeable to the offset of this amount against the public funding, noting that some of those donors have asserted that the donations were made for the purposes of the Federal election, and the Party cannot waive any rights they may have.

Statements of Claim

We note that the proceedings will be discontinued if the Party agrees to the value of the unlawful donations and an offset against the public funding.

Please note that if the Commission had served the Statements of Claim, the Party intended to file a submitting appearance with the Court, and advise all donors to the FEF (which we note you had not joined) of the proceedings in case any of them wished to be heard on the issue.

Publication

For the purposes of full transparency and fairness, the Party requests all correspondence, including the two Advices of Robert Newlinds SC and the Advice of Arthur Moses SC to be made available to the public on its website.

Yours sincerely

A large black rectangular redaction box covering the signature of Michelle Harpur.

Michelle Harpur
Principal

e: michelle@harpurphillips.com.au

MEMORANDUM OF ADVICE

LIBERAL PARTY OF AUSTRALIA (NSW DIVISION) RE WITHHOLDING OF FUNDING BY NSW ELECTORAL COMMISSION

1. INTRODUCTION

- 1.1 I am instructed on behalf of the Liberal Party of Australia (NSW Division) (the **Party**) to advise in relation to the entitlement of the Electoral Commission of New South Wales (NSWEC) to withhold funding from the Elections Campaigns Fund and Administration Fund pursuant to ss 70(1) and 97(1) of the *Election Funding, Expenditure and Disclosures Act 1981* (NSW) (the **Act**).
- 1.2 The dispute arises in circumstances in which NSWEC alleges that the Party's disclosure of two donations in the 2010/2011 financial year (**Impugned Donations**) misidentifies the donors. That allegation is based on evidence given before the Independent Commission Against Corruption (ICAC) in 2014 suggesting that the Impugned Donations, disclosed as having been made by Vincent Heufel and Harmony Hill Pty Ltd, were in fact made by Mambare Pty Ltd and Jeffrey McCloy respectively.
- 1.3 I do not understand it to be in dispute that:
- (a) leaving aside from potential application of 70(1) and 97(1), the Party is otherwise entitled to funding under the Act; and

- (b) the Impugned Donations were disclosed by the Party in a declaration lodged in 2011 in the form and manner approved by NSWEC (with the donors identified as Vincent Heufel and Harmony Hill Pty Ltd).

1.4 I am further instructed that:

- (a) the Party had no notice that the Impugned Donations were made by anyone other than the persons identified in the Party's declaration; and
- (b) in the case of the Heufel donation, both Heufel and Mambare Pty Ltd have asserted to the State Director of the Party that the donor was indeed Mr Heufel.

1.5 The sole issue to be addressed in the present advice is whether, in these circumstances, ss 70(1) and 97(1) of the Act entitle NSWEC to withhold funding from the Party, on the basis that the Party has failed to lodge a "requisite declaration" under the Act.

1.6 I note that I have also been briefed with correspondence between the Liberal Party of Australia (NSW Division) and NSWEC concerning this issue, including correspondence by my instructing solicitors dated 7 September 2016 and a reply received from NSWEC dated 9 September 2016.

2. STRUCTURE OF THE ACT

2.1 Parts 5 and 6A of the Act establish regimes for the public funding of:

- (a) electoral communication expenditure relating to State elections; and
- (b) administrative expenditure,

respectively. Pursuant to Division 2 of each of these Parts, such funding is respectively provided out of the Election Campaigns Fund and Administration Fund kept by NSWEC.

2.2 Section 70 of the Act, which falls within Part 5, relevantly provides:

“(1) A party or candidate is not eligible for any payment ... under this Part in respect of a general election while any failure to lodge a requisite declaration ... under Part 6 for a past period continues in respect of the party or candidate[.]”

(2) If the Electoral Commission is authorised under section 96J to recover from a party or candidate ... an amount relating to the unlawful acceptance of a political donation or other amount, the Electoral Commission may deduct the amount from any payment ... under this Part.”

2.3 Section 97L of the Act, which falls within Part 6A, is in materially identical terms.

2.4 Part 6 of the Act regulates political donations and electoral expenditure in relation to State elections and elected members of Parliament. In particular, it imposes disclosure obligations in respect of political donations received or made by various persons (including political parties).

2.5 Section 92 of the Act specifies the content of the disclosure obligations applicable to political donations. However, the manner in which disclosures are to be made is governed by s 91, which relevantly provides:

“(1) Disclosures under this Part are to be made within 8 weeks after the end of each relevant disclosure period (or within such other period as may be prescribed by the regulations).

(2) Disclosures are to be made in a declaration lodged with the Electoral Commission in the form and manner approved by the Electoral Commission (except as provided by this section).

[...]

- (4) *A declaration lodged under this section is to contain a statement to the effect that all disclosures required to be made in relation to the relevant disclosure period have been made.*
- (5) *A declaration is required to be lodged under this section even if it does not contain any disclosures ... [.] For the purposes of this Act [...]:*
 - (a) *the declaration is taken to be the making of a disclosure required by this Part, and*
 - (b) *the time required by this Part for lodging the declaration is taken to be the time prescribed by subsection (1) for the making of disclosures under this Part.”*

2.6 Division 5 of Part 6 of the Act creates a number of offences and remedies relating to breaches of Part 6. Most relevantly, s 96H creates separate offences for:

- (a) failing to lodge a declaration under s 91 within the time required; and
- (b) making a statement in a declaration or other disclosure that the maker knows is false or does not reasonably believe is true.

2.7 Additionally, s 96J provides for recovery of political donations that are unlawful under Part 6 as a debt payable to the State (and recoverable by the Electoral Commission).

2.8 Finally, s 96M permits a person who has lodged a declaration under Part 6 to amend that declaration by lodging an amended declaration with the Electoral Commission. This does not affect liability for any offence in connection with the original declaration.

3. ANALYSIS

3.1 The principal issue of statutory construction which arises is whether an incorrect identification of donors in a declaration made under s 91 of the Act constitutes a

“failure to lodge a requisite declaration” within the meaning of ss 70(1) and 97L(1). NSWEC appears to adopt the position that any misidentification of donors amounts to such a failure unless and until the declaration is amended to identify the true donors.

- 3.2 In my opinion, there are a number of considerations which weigh against the construction adopted by NSWEC.

Statutory text

- 3.3 The precise wording of ss 70(1) and 97L(1) warrants emphasis. Both sections refer specifically to a “failure to *lodge a requisite declaration*” (emphasis added). This may be contrasted with a failure to make a requisite disclosure. Although neither “declaration” or “disclosure” are defined terms for the purposes of Part 6 or the Act more broadly, it is apparent from the drafting of ss 90, 91 and 92 that “disclosure” is used to refer generally to the provision of information on a matter, while “declaration” refers more specifically to the actual document in which that information is provided. This emerges most clearly from the terms of s 91(2).

- 3.4 As set out above, s 91(1) creates an obligation to make *disclosures* within a particular time frame. However, s 91(2) requires disclosures to be made in a declaration. There is therefore a distinct (though related) obligation to make a *declaration* under s 91. Support for this proposition may be drawn from s 91(5), which provides that a declaration is required to be made within a particular time frame even where it does not contain any disclosures. That being so, the expression “requisite declaration” in ss 70(1) and 97L(1) can be understood as picking up the requirement under s 91 to make a declaration in the approved form as opposed to the requirement to make all necessary disclosures in that declaration.

- 3.5 The alternative view would be that “requisite declaration” picks up the compound requirement to make disclosures within the specified time frame and to do so in a declaration. On this view, failure to (correctly) disclose all necessary matters is a failure to make a *requisite* declaration, on the basis that there has been a declaration, but not the one required by Part 6 of the Act.
- 3.6 I consider that the statutory text of ss 70(1) and 97L(1) is more apt to refer to the requirement to make a declaration in the approved form in accordance with s 91(2). Had the legislative intention been to make eligibility for funds contingent on all requisite *disclosures* having been correctly made, it would have been more natural for ss 70(1) and 97L(1) to refer to “requisite disclosure” rather than “requisite declaration”.

Statutory context – provisions relating to withholding and set-off of funding

- 3.7 Under ss 70(1) and 97L(1), eligibility for payments under Part 5 and Part 6A respectively is made contingent on there being no continuing “failure to lodge a requisite declaration”. If such a failure were interpreted as including the existence of errors or inaccuracies in the declaration, it would follow that the statutory authority for the disbursement of funds by NSWEC to an otherwise eligible recipient is contingent on the correctness of the declaration.
- 3.8 Accordingly, in advance of any payment of funds NSWEC would be required to determine not only that the declaration was certified by the maker (in accordance with s 91(4)) and an auditor (in accordance with s 96K), but also that the contents of the declaration were in fact correct in all material respects. Moreover, in the event that contrary information unavailable at the time of the declaration subsequently came to light, this would have the consequence that NSWEC’s payment of funds would be retrospectively revealed as being beyond statutory authority.

3.9 Such an approach appears not only impractical but incongruous with other provisions of the Act relating to the set-off of funding. As set out above, s 96J provides for recovery of unlawful political donations as debts owed to the State. Thus, where a declaration is later found to be incorrect, such that what appeared to be a lawful political donation is revealed to have been unlawful, s 96J establishes a mechanism for addressing this on a prospective basis. Moreover, ss 70(2) and 97L(2) allow for the debt to be recovered by way of set-off from payment of funds under Part 5 and Part 6A respectively. This is a strong indication that the intended operation of the statutory scheme is for any errors in declarations that bear directly on lawfulness of donations and/or entitlement to payments be addressed discretely rather than triggering a total ineligibility for payment under ss 70(1) and/or 97L(1).

Statutory context – interaction with offence provisions

3.10 As already noted, s 96H creates an offence of failing to lodge a declaration under s 91 within the time required by Part 6, and an offence of making a statement in a declaration that the maker knows to be false or does not reasonably believe to be true.

3.11 The evident intent of this pattern of offences is to impose strict liability in respect of the lodgement of a declaration, but only liability based on intention or recklessness in respect of the correctness of the contents of the declaration.

3.12 However, if NSWEC's construction of ss 70(1) and 97L(1) is adopted, to the effect that an error in a declaration constitutes a "failure to lodge a requisite declaration", it would seem to follow that it similarly constitutes a failure to lodge a declaration by a person who is required to do so, within the meaning of s 96H. This would transform the offence in s 96H(1) into a strict liability offence with respect to the correctness of the contents of the declaration. Not only is this contrary to the evident intent of the pattern of offences in s 96H, it also creates the risk of serious injustice in circumstances where the maker of a declaration

may have no possible means of verifying the accuracy of information provided by a donor. In my opinion, very clear and unambiguous language would ordinarily be required for such a construction to be adopted.

- 3.13 More generally, the existence of a framework of criminal offences to protect the integrity of disclosures and declarations under s 91 cuts against any suggestion that ss 70(1) and 97L(1) represent a collateral means of enforcing the obligation to make truthful disclosures. It is consistent with ss 70(1) and 97L(1) serving to enforce the obligation to make a declaration at all, with s 96H then protecting the integrity of the declaration. In this respect, it should be noted that pursuant to s 91(4), a declaration must include a statement to the effect that all required disclosures have been made. Thus, if disclosures were knowingly omitted, the declaration would inevitably contain a false or misleading statement that could trigger s 96H.

Countervailing consideration – right to amend declaration?

- 3.14 As against the considerations set out above, it might be argued by NSWEC that the express provision of a right to amend a declaration under s 91 supports the construction of ss 70(1) and 97L(1) adopted by NSWEC. The basis for such an argument would be that while s 96M confers a right to amend declarations, there seems to be no express provision of the Act which requires such amendment or otherwise provides a rationale for doing so. To the extent that a previous, false declaration is corrected by amendment, this provides no relief from any liability associated with the original declaration: s 96M(3). No offence is expressly created in respect of failing to correct an earlier declaration if one later discovers it to be inaccurate; the offence under s 96H is limited to making statements which the person knows to be false or does not reasonably believe to be true.
- 3.15 It may also be argued that adopting NSWEC’s construction of ss 70(1) and 97L(1) would provide a rationale for the existence of the right to amend declarations: the purpose of doing so would be to alleviate the “failure to lodge a

requisite declaration” under those provisions and restore eligibility to payments under Part 5 and Part 6A of the Act. This might be argued to lend it support.

3.16 However, in my opinion this argument is misconceived. The power to amend declarations under s 96M could potentially be relevant to certain offences under the Act such as s 96HB relating to schemes to circumvent donation or expenditure restrictions; failing to correct a declaration known to be false might well form part of such a scheme. Moreover, even in the absence of an applicable offence, I consider that the existence of obligations to disclose particular matters under Part 6 of the Act provides, a sufficient explanation for the existence of a right to amend declarations so as to comply with those obligations.

4. CONCLUSION

4.1 Having regard to all of the considerations outlined above, I consider the correct view to be that a “failure to lodge a requisite declaration” in ss 70(1) and 97L(1) refers to a failure to lodge a declaration in the approved form at all. The existence of errors or inaccuracies in such a declaration is not, in my view, sufficient.

4.2 Accordingly, in the present circumstances there has not been a failure to lodge a requisite declaration by the Party, and NSWEC is not entitled to withhold funding pursuant to ss 70(1) and 97L(1). To the extent that NSWEC considers that the Impugned Donations were unlawful, its remedy would be limited to seeking recovery of the donations pursuant to s 96J (and/or deducting the amount of those donations from the payments to be made to the Party, in accordance with ss 70(2) and 97L(2)). It follows that it is my view that the continued withholding of funding by NSWEC is unlawful.

4.3 I note the concerns expressed in my instructing solicitors letter dated 7 September 2016 to NSWEC in relation to the giving of a declaration in the form sought by NSWEC, placing reliance on the ICAC evidence. I consider that

those concerns are well founded. I also note the potential difficulties in the Party's auditor certifying a declaration made by reference to the ICAC evidence without access to the donors' records, and the tension this creates with the auditing requirement under s 96M. However, in my view these points are not necessary to resolve for the purposes of construing ss 70(1) and 97L(1). I have therefore not addressed them at length. It suffices to note in passing that even if the view expressed above as to the construction of ss 70(1) and 97L(1) is incorrect, it would be extraordinary if those provisions effectively required the Party (through its agent) to make a declaration which it might not reasonably believe to be true,¹ or of matters that it has no knowledge of, and to obtain an auditor sign-off in respect of statements running contrary to the Party's records and supported only by extraneous information. The provisions plainly do not operate in that manner. It is not appropriate for any person to suggest what a person should state in a declaration regardless of his or her knowledge including information that is in his or her possession.



ARTHUR MOSES SC

New Chambers

13 September 2016

¹ Depending on some attempt at weighing up the credibility of the ICAC evidence and/or the representations made to the Party by the donors.

Independent audit report to the members of The Liberal Party of Australia, New South Wales Division

We have audited the accompanying 'EF704 Amended Disclosure for a Political Party' of The Liberal Party of Australia, New South Wales Division ("the Party") dated [xxx] 2016, for the period 1 July 2010 to 30 June 2011 ("the Amended Disclosure"). The Amended Disclosure has been prepared by Mr Bruce Walton, agent for The Liberal Party of Australia, New South Wales Division ("the Party Agent"), as permitted under Section 88(3) and 96M(1) of the *Election Funding, Expenditure and Disclosures Act of 1981 (NSW) No. 78* ("the Act").

Party Agent's responsibility for the Amended Disclosure

The Party Agent is responsible for the preparation and presentation of the Amended Disclosure in accordance with Section 88 through 95 and 96M(1) of the Act, pursuant to the definitions contained in Section 84 through 87. The Party Agent is responsible for determining the categorisation of political donations and electoral expenditure in accordance with the reportable categories defined in Section 92 through 93.

The Amended Disclosure has been prepared for the purposes of the Party Agent responding to correspondence from the New South Wales Electoral Commission ("the NSWEC") issued on 23 March 2016, 11 May 2016 and 12 May 2016. This correspondence outlines the view of the NSWEC that certain amounts were not reported accurately as to the source of the donation in either the original Declaration of the Disclosure of Political Donations and Electoral Expenditure for a Political Party, dated 26 September 2011 ("Original Reporting"), or the Amendment to the Declaration of the EF679 Disclosure of Political Donations and Electoral Expenditure for a Political Party, dated 2 February ("Previous Amended Reporting"). It is the conclusion of the NSWEC that the Party Agent should consider the source of donations used as evidence in the course of hearings conducted by the Independent Commission Against Corruption ("ICAC") when reportable political donations to the Party are included in the Amended Disclosure.

The Amended Disclosure has been prepared as a supplement to both the Original Reporting and Previous Amended Reporting, specific to the request of the NSWEC and is to be read in conjunction with both the Original Reporting and Previous Amended Reporting to fulfil the Party obligations under Section 84 through 87 of the Act.

The Party Agents' responsibility also includes such internal control as the Party Agent determines necessary to enable the preparation and presentation of an Amended Disclosure that is free from material misstatement whether due to fraud or error.

Auditor's responsibility

Our responsibility is to express an opinion on the Amended Disclosure based on our audit. We conducted our audit in accordance with Australian Auditing Standard 805, pursuant to the audit certificate obligations of Section 96K(1) and 96M(2) of the Act. These Auditing Standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the Amended Disclosure is free from material misstatement. We have also had regard to the determinations made by the NSWEC for the preparation and presentation of the Amended Disclosure, in particular the inclusion of certain amounts used as evidence in the course of hearings conducted by the Independent Commission Against Corruption. Our audit has been completed on this basis.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the Amended Disclosure. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial report, whether due to fraud or error.

In making risk assessments, the auditor considers internal control relevant to the Party Agent's preparation and presentation of the Amended Disclosure in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Party Agent's internal control. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of accounting estimates made by the Party Agent, as well as evaluating the overall presentation of the Amended Disclosure. These procedures have been undertaken to form an opinion whether, in all material respects, the Amended Disclosure is presented in accordance with Section 88 through 95 and 96M(1) of the Act, so as to present a view which is consistent with our understanding of the Party's political donations and electoral expenditure.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Independence

In conducting our audit, we have complied with the independence requirements of the Accounting Professional and Ethical Standards Board.

Basis for Qualified Opinion

It is not always practicable or possible for the Party Agent to establish effective controls over the completeness of the collection of political donations prior to entry into its financial records. Accordingly, it has been difficult for the Party Agent to establish effective controls over the completeness of information obtained from Party Units of The Liberal Party of Australia, New South Wales Division, for the aggregation of political donations. As the evidence available to us regarding the completeness of political donations was limited, our audit procedures with respect to political donations had to be restricted to the amounts recorded in the financial records. Accordingly, we are unable to obtain sufficient evidence that the political donations disclosed within the Amended Disclosure are complete.

It has been difficult for the Party Agent to establish effective controls and procedures over the completeness of electoral expenditure prior to entry into its financial records. Accordingly, we have been unable to obtain sufficient evidence that the electoral expenditure disclosed within the Amended Disclosure is complete.

Political donations received and electoral expenditure incurred by Party Units of the Party, are included within the Amended Disclosure, where the Party Units to The Party have registered political donations and electoral expenditure with The Party Agent. We have been unable to obtain sufficient evidence over the existence, completeness and accuracy of these political donations and electoral expenditure amounts and related disclosure information.

In addition, we have been unable to obtain evidence supporting the source of the donations reported in respect of Heufel and McCloy from the accounts and documents of the Party Agent responsible for lodging the Amended Disclosure.

Had we been able to obtain the information we require, matters might have come to our attention indicating that adjustments might be necessary to the Amended Disclosure.

Qualified Auditor's opinion

Except for the possible effects or adjustments to the Amended Disclosure that we might have become aware of had it not been for the limitations on our audit procedures described in the preceding Basis for Qualified Opinion paragraph, in our opinion, the EF704 Amended Disclosure for a Political Party presents, in all material respects, the political donations and electoral expenditures of The Liberal Party

of Australia, New South Wales Division for the period 1 July 2010 to 30 June 2011 in accordance with the disclosure requirements of Part 6 of the *Election Funding, Expenditure and Disclosures Act of 1981 (NSW) No. 78*, as determined by the NSWEC in correspondence received on 23 March 2016.

In carrying out our audit procedures, we note the following matters:

- 1 We were given full and free access at all reasonable times to all accounts and documents of the Party Agent responsible for lodging the Amended Disclosure, The Liberal Party of Australia, New South Wales Division, relating directly or indirectly to any matter required to be disclosure under Part 6 of the *Election Funding, Expenditure and Disclosures Act 1981 (NSW) No.78*;
- 2 We duly examined such of those accounts and documents as we considered material for the purposes of giving this report;
- 3 We received all information and explanations that we asked for with respect to any matter required to be set out in the Amended Disclosure, subject to the qualifications outlined in the Basis for Qualified Opinion paragraph; and
- 4 Except for the possible effects or adjustments to the Amended Disclosure that we might have become aware of had it not been for the limitations on our audit procedures described in the preceding Basis for Qualified Opinion paragraph, we have no reason to think that any statement in the declaration is not correct.

Associated Reporting

Our report is to be read in conjunction with our Independent audit reports to the members of The Liberal Party of Australia, New South Wales Division, on both the Original Reporting, signed on 29 September 2011, and Previous Amended Reporting, signed on 3 March 2015 and 26 May 2016, respectively.

Restrictions on Distribution

Our report is intended solely for the Liberal Party of Australia, New South Wales Division, and the New South Wales Electoral Commission and should not be distributed to or used by parties other than the Party Agent and the New South Wales Electoral Commission. We disclaim any assumption of responsibility for any reliance on this report, or on the Amended Disclosure to which it relates, to any person other than the Party Agent of The Liberal Party of Australia, New South Wales Division and the New South Wales Electoral Commission or for any other purpose than that for which it was prepared.

KPMG

John Wigglesworth

Partner

Auditor registration number: 203423

Sydney

[xxx] 2016

FDC2016/137

Ms Michelle Harpur
Principal
Harpur Phillips
Suite 1.03
55 Miller Street
PYRMONT NSW 2009

9 September 2016

Dear Michelle

Amendment to the 2010/11 Declaration of the Liberal Party of Australia (NSW Division)

I refer to your letter of 7 September 2016.

Amended disclosure

The NSW Electoral Commission is not dissuaded from its view that the party agent and the party's auditor can provide an amended declaration of disclosure of the donations from Mambare Pty Ltd and Jeffery McCloy.

It appears from your letter that there has been a misunderstanding of the Commission's position. The Commission, through Ms Byrne, has not suggested that the party agent, Bruce Walton, sign a declaration that he does not believe to be true. The Commission's view is that there is sufficient information available to support that the donations in question were made by Mambare Pty Ltd and Jeffrey McCloy.

Further, Ms Byrne's assurance, during the meeting on 16 August 2016, that Mr Walton would not be held criminally liable for an amended declaration disclosing the two donations was on the basis that, on the information presently known to the Commission, Mr Walton was not responsible for the original declaration, and in making an amended declaration, would be attesting to facts as they were presently known to him. Ms Roberts advised that the legislation allows a party agent to amend a declaration if further information or a change in circumstances came to light. Ms Byrne advised that the Commission's primary aim in pursuing disclosures is transparency and compliance with the legislation.

Proposal in relation to the form of an amended disclosure

Notwithstanding the Commission's view as stated above, the Commission will accept a declaration from the party agent as described on page 3 of your letter. The declaration should be made as follows:

This is a supplement to the Disclosure of Political Donations and Electoral Expenditure and its amendments made on 26 September 2011, 5 December 2011, 11 October 2012, 1 May 2013, 2 February 2015 and 26 May 2016.

Take in (a) – (g) from Harpur Phillips letter

This supplementary disclosure is true insofar as it relates to matters within my knowledge, and is true to the best of my information and belief and based on inquiries of employees and officers of the party insofar as it relates to matters not within my knowledge.

The declaration will be published online with the party's previous declarations for the 2010-11 period.

Sections 70(1) and 97L(1) of the EFED Act

The Commission does not accept the construction of sections 70(1) and 97L(1) of the *Election Funding, Expenditure and Disclosures Act 1981* (EFED Act) as provided in the advice of Mr Newlinds SC. As advised in past correspondence and in the Commission's Statement of Facts dated 23 March 2016, it is of the view that a requisite declaration requires disclosure of all political donations received including full details of reportable political donations as prescribed in Part 6 of the EFED Act.

In his advice dated 29 March 2016, Newlinds SC states, "*My opinion is reinforced by the fact that nowhere in the Act is the Commission given the power or authority to make determinations as to the accuracy or otherwise of a declaration*". With respect, the Commission does have such power and authority, including but not limited to sections 110A and 111 of the EFED Act, and clause 33 of the Regulations.

Please note that Newlinds SC has mis-referenced sections 96H and 96J of the EFED Act in his advice.

Payment of claims for public funding

Subject to receiving an amended declaration in the terms discussed above, on the information presently available to the Commission, the party will be eligible for public funding.

As outlined in our letter to Messrs Stone and Walton dated 12 May 2016 and again during the meeting of 16 August 2016, the Commission will offset the value of unlawful donations received by the party from its funding payments. The Commission has received no response or representations on behalf of the party in relation to the offset.

In making payments to the party from the Election Campaigns Fund and Administration Fund, the Commission will exercise powers under sections 70(2) and 97L(2) of the EFED Act to offset \$596,992.00 from the total payment. You will note that the offset amount has been adjusted since our correspondence of 12 May 2016 to reflect the reclassification of the Vaste donation as received exclusively for federal election purposes.

Statements of Claim

At our meeting on 16 August 2016 copies of two Statements of Claim in which Mr Walton is listed as a defendant were provided to Messrs Stone and Walton. You were advised that the Commission had filed but not served proceedings so as to protect its position should the Commission and party fail to resolve the issue of recovery of unlawful donations received by the party. On receipt of the Statements of Claim, Ms Harpur advised that the party did not wish for the matter to go to court.

In recognition of statements by officers of the party and the Premier that they wished to resolve these matters and acknowledged that the party had received unlawful donations during the 2010-11 period, the Commission has not served proceedings on the party agent.

If the party accepts the offset of the value of unlawful donations from its public funding payments the Commission will discontinue proceedings.

The Commission has instructed the Crown Solicitor's Office to serve a Statement of Claim on Mr Vincent Heufel in which Mr Walton is listed as the second defendant (a copy of which was provided during our meeting on 16 August 2016).

Correspondence attached to the Statement of Claim will advise Mr Heufel that the Commission will discontinue proceedings should the Liberal Party accept an offset of the value of the donation from its payment of public funding.

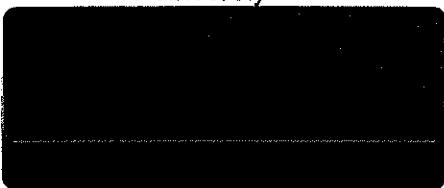
Mediation

In light of the above, the Commission is of the view that mediation is not presently warranted.

Media statement

Once an amended declaration is received and a determination is made that the party is eligible for public funding the Commission will release a statement to that effect. The statement will give a chronology since the last release and will advise that the value of unlawful donations has been offset from the party's payment of public funding.

Yours sincerely



Alison Byrne
Executive Director
For and on behalf of the NSW Electoral Commission

7 September 2016

Alison Byrne
Executive Director
NSW Electoral Commission
25/201 Kent Street
SYDNEY NSW 2000

Dear Alison

Party Declaration for 2010/11 and Disclosure of Donations made by Vincent Heufel and Harmony Hill Pty Limited

As you know, we act on behalf of the Liberal Party of Australia (NSW Division) ("**Party**"). We refer to your letter dated 31 August 2016.

We note that in that correspondence you state that the Commission will consider:

- a) an amended disclosure; and
- b) any additional representations;

made on behalf of the Party by 7 September 2016 after which time "*...it will pursue alternative action*".

Amended disclosure

We note that the Commission has previously stated that the Party should submit an amended disclosure that complies in all respects with Part 6 of the *Election Funding, Expenditure and Disclosures Act 1981* (the **EFED Act**). We further note that the Commission has stated that until that step is undertaken:

- a) it will not release funding;
- b) it will not offset donations which it considers to be prohibited and pay the balance of funds to the Party.

As you would appreciate, under section 90 of the EFED Act, the person responsible for making the disclosure is the Party Agent. In order for the disclosure to be made, the Party Agent must have an honest belief, held on reasonable grounds, that the content of the disclosure is true and correct.

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The issue which has crystallised in relation to the amended disclosure, is the content of it. As we understand it, the Commission's position is that it requires the amended disclosure and requisite declaration to contain a positive assertion that monies donated to the Party from Vincent Heufel and Harmony Hill Pty Ltd were from Mambare Pty Ltd and Mr McCloy respectively.

For the reasons provided to the Commission in correspondence dated 4 August 2016 from the Party, the Party Agent is not in a position to provide a declaration in the form of a disclosure which purports to make a positive assertion in the form suggested by the Commission in relation to the monies donated to the Party from Vincent Heufel and Harmony Hill Pty Ltd. It is important to note that the Party Agent is the person who must form the view concerning the donations as he is responsible for the truthfulness of the declaration.

As you are aware, the current position is:

1. the Party Agent had no notice at the time the donations were made, that the donations were made by anyone other than Mr Heufel and Harmony Hill Pty Ltd;
2. the proposed amended disclosure cannot be audited, as is required under the *EFED Act*. The Party's external auditors KPMG have advised that the donations cannot be audited, beyond what is recorded in the Party's accounts; and
3. the Commission is asking the Party to rely on evidence given at ICAC in amending its disclosure, when that evidence is inadmissible in other proceedings, and requires the Party to assess the credit of various witnesses as opposed to representations that were made to the Party at the time the donations were made and since that time (in the case of Mr Heufel).

In the Party's letter to the Commission dated 4 August 2016, it specifically sought the Commission's guidance as to how the Party could satisfy its obligations in light of these matters.

In response to the Party's letter dated 4 August 2016, the Commission wrote to the Party on 10 August 2016 in which it indicated that Ms Byrne, the Executive Director had been instructed to meet with the Party with Mr Stone and Mr Walton "...to further discuss the Liberal Party's 2010/2011 Declaration of Disclosures and its eligibility for public funding".

We note that a meeting was subsequently held on 16 August 2016 attended by a number of persons including the Party's State Director, Party Agent and the writer. On behalf of the Commission, we note that Ms Byrne (the Executive Director, Funding Disclosure and Compliance), Linda Franklin (Senior Executive, Strategic Advice) and Terrie Roberts (Principal Legal Officer) attended.

Without traversing all of the issues discussed in the meeting on 16 August 2016, there are two issues to note:

1. it was suggested by Ms Byrne that the Party Agent should not have any concerns in relation to criminal liability in relation to the declaration to an amended disclosure if it was to be lodged in the terms suggested by the Commission; and
2. it was suggested by Ms Byrne that the Party's external auditor could take into account ICAC transcripts and exhibits for the purpose of drawing a reasonable conclusion on which to base the opinion of the auditor. In support of this proposition, in an email dated 17 September 2016, Ms Byrne referred to the Australian Auditing Standard ASA500 at [11].

These matters have been given very close attention and consideration by the Party as well as the external auditors, KPMG. However, as a matter of law and probity the following is the position:

- a) the Party Agent cannot sign a declaration in the form of an amended disclosure unless he has an honest belief held on reasonable grounds as to the correctness of the content of the declaration. This applies notwithstanding any assurance by any person employed by the Commission as to his liability or otherwise should he sign a declaration which is not based on an honest belief. This view has been confirmed by advice received from Senior Counsel; and
- b) the advice of the external auditors, KPMG, remains the same as in the letter dated 4 August 2016 from the Party to the Commission.

Proposal in relation to the form of an amended disclosure

In order to deal with this issue, the Party Agent would give a declaration which would state the following:

- a) *in relation to 2010/2011, the following donations were received from:*
 - i. *Vincent Heufel in the sum of \$100,000; and*
 - ii. *Harmony Hill Pty Ltd in the sum of \$10,000.*
- b) *at the time the donations were made, the Party had no notice that the donations were made by anyone other than the person making the donation;*
- c) *the Party Agent has since been made aware that there was evidence given at an ICAC inquiry in connection with Operation Spicer which was the subject of a report delivered on 30 August 2016, which suggested that:*
 - i. *the donation received from Vincent Heufel was in fact donated by Mambare Pty Ltd; and*
 - ii. *the donation received from Harmony Hill Pty Ltd was in fact donated by Jeff McCloy.*

- d) *the State Director has sought information from Mr Heufel and Mr Baumann on behalf of Mambare Pty Limited in order to confirm or otherwise the source of money which was the subject of the donation. Mr Heufel and Mr Baumann on behalf of Mambare Pty Limited have declined to provide information. Mr Heufel has stated that he was the source of the donation;*
- e) *the State Director and Party Agent have also attempted to contact the officers of Harmony Hill Pty Limited to confirm or otherwise the source of the money the subject of the donation made by with, but without success;*
- f) *the external auditors of the Party have advised the Party Agent, that it cannot provide an audit of the donations from Mr Heufel and Harmony Hill Pty Ltd other than what is set out in the Party records as to the source of the donations; and*
- g) *the Party Agent accepts that inconsistencies exist between the donations that were made to the Party by Mr Heufel and Harmony Hill Pty Ltd and some of the evidence given at ICAC in relation to the donations. However, he is not in a position to resolve those inconsistencies.*

Of course, if such a declaration was provided in these terms by the Party Agent, the Party accepts that the Commission could come to its own view as to how the donations should be characterised. As you would appreciate, the difficulty is that the Party Agent cannot be put in the position of having to execute a declaration in definite terms when he is not in a position to do so.

Section 70(1) and section 97L of the EFED Act

We note that the Commission has formed the view that it must withhold funding pursuant to ss.70(1) and 97L(1) of the *EFED Act* on the basis that the Party has not lodged a requisite declaration which complies with Part 6 of the *EFED Act*.

The Party has sought advice from Mr Newlinds SC in relation to this issue. He has advised that the Commission has no lawful basis to withhold funding pursuant to ss.70(1) and 97L(1) of the *EFED Act*. In a spirit of cooperation, we enclose a copy of his two Advices dated 29 March 2016 and 9 August 2016 for your consideration. We ask that you provide us with a copy of any advice that you have received which states a contrary position.

We would also ask, if you have not done so already, that you seek the advice of the NSW Solicitor-General in relation to the preferred construction of the *EFED Act* before the need for any proceedings being commenced or maintained arises. As you are aware, one of the roles of the NSW Solicitor-General is to advise executive agencies as to their powers and obligations. It would be preferable and in accordance with acting as a model litigant, that the approach that we have suggested above in relation to assisting in resolving the dispute about the construction of the *EFED Act* be adopted.

Mediation

Regrettably the meeting between the Commission and the Party on 16 August 2016 has been unable to resolve matters to date. Prior to the parties engaging in time consuming and costly litigation, we are instructed to inform you that the Party is willing to undertake a mediation in the week commencing 12 September 2016 to resolve outstanding matters. We note in that respect that the Commission has an obligation to avoid litigation wherever possible: see for example Premier's Memorandum 97-26 Litigation Involving Government Agencies.

We would recommend that either the Honourable Michael McHugh AC QC or Susan Crennan AC QC be appointed as the mediator. We have made enquiries of Mr McHugh AC QC, and he is available on 14 and 15 September 2016. We are also content to consider any alternative mediators.

We would appreciate a response to this correspondence by no later than 4.00pm on Thursday 8 September 2016 so that we can organise the mediation.

Yours sincerely



Michelle Harpur
Principal

e: michelle@harpurphillips.com.au

LIBERAL PARTY OF
AUSTRALIA (NSW
DIVISION)

ADVICE

29 March 2016

Swaab Attorneys
Level 1
20 Hunter Street
SYDNEY NSW 2000
(DX 522 Sydney)

Attention: Ms Michelle Harper

ROBERT NEWLINDS SC

Banco Chambers
Level 5, 65 Martin Place
Sydney NSW 2000
DX 292 SYDNEY

ADVICE

1. I have been asked to advise in relation to the current position as between the Liberal Party of Australia (NSW Division) and the Electoral Commission of New South Wales as articulated in a letter dated 23 March 2016 signed by Keith Mason QC on the letterhead of the Electoral Commission of New South Wales advising of a decision purportedly made pursuant to section 70(1) and 97L(1) of the Electoral Funding and Expenditure and Disclosure Acts 1981 which has the effect of withholding the Liberal Party's current claim of \$4,389,822.80.
2. I will not set out the content of that letter or the attached "Summary of Facts" document and will assume that those reading this note are familiar with both those documents.
3. In essence the Electoral Commission are asserting that because they have concluded that the declaration signed by the party agent pursuant to Section 70(1) of the Act in the relevant year was not accurate in that it did not disclose "donors" who gave money to the Free Enterprise Foundation, that there has been a failure to comply with Section 70(1) thus triggering the legal consequence that the party is not eligible for any payment under the Act.
4. The Commission also relies on Section 97L which provides that any payments under the Act are conditional on compliance with other obligations under the Act.
5. I have not been asked to advise as to whether there has been a failure to disclose "political donations" as is the Electoral Commission's opinion. My advice is limited to the question, on the hypothesis that there has been such a failure, whether the Commission's reading of section 70(1) of the Act is correct.
6. In my opinion, the Commission's construction of the Act is wrong. My reasons are as follows.
7. Section 70(1) requires the party agent to lodge a "requisite declaration".
8. Section 75, Section 86H and Section 96J and other provisions provide for consequences of such declarations being false.
9. The requisite declaration is defined in Section 91 of the Act and undoubtedly the Electoral Commission would concede that the form of the declaration printed by them on the Return complied with the Act.
10. The Act requires the designated party agent to make the requisite declaration. If the declaration is not made at all then the Commission is disentitled from making any

payments to the political party until such time as that state of affairs is rectified. That is the effect of Section 70(1). However, if the requisite declaration is made, the question of whether it is right or wrong is of no moment for the purpose of payments. Such question would be determined by a court after a hearing for breach of the Act or recovery of money wrongly paid under Section 70(2). My opinion is reinforced by the fact that nowhere in the Act is the Commission given the power or authority to make determinations as to the accuracy or otherwise of a declaration.

11. As far as Section 97L is concerned. Reliance on the provision "begs the question". In my opinion, the Act has been complied with by the requisite declaration having been provided by the Party Agent.
12. For these reasons I conclude that in the relevant period a requisite declaration was provided to the Commission pursuant to Section 70(1) of the Act and accordingly, there is no basis at law for the Commission to withhold any amount currently due to the Party Agent.
13. I advise accordingly.

Dated 29 March 2016



ROBERT NEWLINDS

LIBERAL PARTY OF
AUSTRALIA (NSW
DIVISION)



ADVICE

29 August 2016

Harpur Phillips
Suite 1.03
55 Miller Street
PYRMONT NSW 2009

Attention: Ms Michelle Harper

Email: michelle@harpurphillips.com.au

ROBERT NEWLINDS SC
Banco Chambers
Level 5, 65 Martin Place
Sydney NSW 2000
DX 292 SYDNEY

ADVICE

LIBERAL PARTY OF AUSTRALIA
(NEW SOUTH WALES DIVISION)

1. I refer to the conference on 26 August 2016 in relation to the ongoing dispute between the Liberal Party of Australia (New South Wales Division) and the Electoral Commission of New South Wales.
2. The core issue between the Party and the Commission has not changed since my advice of 29 March 2016 and nor has my opinion. I will assume those reading this Advice have also read my Advice of 29 March 2016.
3. What has occurred since March is that the Party, under pressure from the Commission, did lodge an amended return which the Commission is again insisting ought be further amended because of information which it says has come to the Party's attention since the lodging of the earlier returns.
4. Despite being asked in clear terms, the Commission is not prepared to concede that if a further return is lodged, that the monies currently being retained will in fact be paid. In other words, the Commission's position is that the money will not be released unless and until the Commission is satisfied that the return(s) lodged by the Party is (are) in the Commission's opinion accurate.
5. The amount being withheld remains \$4,389,822.80.
6. As was the position in March, the Electoral Commission is asserting that because they have concluded that the various declarations signed by the Party agent pursuant to Section 70(1) of the Act are not accurate, there has been a failure to comply with Section 70(1) thus triggering the legal consequence that the Party is not eligible for any payment under the Act.
7. In my opinion the Commission's construction of the Act is manifestly wrong. My reasons are the same as those articulated in March and they are as follows:
 - (i) Section 70(1) requires the Party agent to lodge a "Requisite Declaration";
 - (ii) Section 75, Section 86(H) and Section 76(J) and other provisions provide for the consequences of such declarations being false;
 - (iii) A "requisite declaration" is defined in section 91, undoubtedly the Commission will concede that the form of the declaration printed by them on the return complied with the Act;

- (iv) The Act requires the Party agent to make the requisite declaration. If the declaration is not made at all then the Commission is disentitled from making any payments to the Party until such time as that state of affairs is rectified. That is the effect of Section 70(1);
 - (v) Conversely, if a requisite declaration is made in good faith in that it represents the Party's agent's honest belief as to the donations received in the relevant period, the question of whether that declaration is right or wrong is of no moment for the purpose of payment. Such questions would be determined by a court after a hearing for breach of the Act or recovery of money wrongly paid under Section 70(2). Nowhere in the Act is the Commission given the power or authority to make determinations as to the accuracy or otherwise of a declaration. Nowhere in the Act is there any suggestion that the Commission can hold back payments in the current circumstances;
 - (vi) As far as Section 97L is concerned, reliance on the provision "begs the question". In my opinion, the Act has been complied with by the requisite declarations having been provided by the Party agent.
8. Moreover, in my opinion, the insistence by the Commission that the returns be further audited by the Party's auditors is misplaced. Again, the requisite declarations have been lodged and have been certified by the auditor. That is the end of the matter. It is not for the Commission to second guess the adequacy or otherwise of that audit. I would go further and observe that as a matter of practical reality, the insistence of the Commission that the auditors in fact audit facts only known to the donors is a nonsense. Neither the Party nor the auditor has any power or authority to access such information. I also do not think it is for the auditor to review evidence given before ICAC and form conclusions based on that evidence which, of course, is not admissible in any court.
9. For these reasons, I can see no reason to depart from my Advice of 29 March 2016. It remains my opinion that in the relevant period a requisite declaration (indeed more than one) was provided to the Commission pursuant to Section 70(1) of the Act and accordingly there is no basis at law for the Commission to withhold any amount currently due to the Party relating to that period.
10. In my opinion, if the Party were to commence proceedings in the Supreme Court of New South Wales seeking declarations to the above effect and an order that the monies be paid, it would almost certainly succeed.

11. I advise accordingly.

Dated: 29 August 2016

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ROBERT NEWLINDS

LIBERAL PARTY OF AUSTRALIA

NEW SOUTH WALES DIVISION

State Director

4 August 2016

The Acting Electoral Commissioner
Electoral Commission NSW
Level 25
201 Kent Street
SYDNEY NSW 2000

Dear Ms Franklin

Heufel and Harmony Hill Donations and KPMG Audit report

We refer to your letter dated 8 June 2016 and apologise for the delay in replying but I am sure you will understand that the campaign for the federal election required our full attention and focus.

We also refer to your letter dated 12 May 2016 so far as it relates to donations declared by the Party in 2010/11 as having been made by Harmony Hill Pty Limited in the amount of \$10,000 and Vincent Heufel in the amount of \$100,000.

Again, we seek the assistance of the Commission in working through areas of uncertainty about the legal status of these donors in the 2010/11 period so as to resolve these matters and comply with our obligations. We would like to meet with you as a matter of urgency to discuss the issues outlined below.

Heufel and Harmony Hill Donations

The Party has considered the requirement of the Electoral Commission that these donations be disclosed as having been made by Mr McCloy and Mambare Pty Limited.

In our letter of 27 April 2016 we asked that the Commission provide some guidance as to how the Party can lodge the Amended Declaration requested. Your reply of 12 May 2016 set out the view of the Electoral Commission in relation to the evidence given before ICAC, and the fact that the Report has not yet been released.

With respect, whilst you refer to the ICAC evidence as "*facts*", which cannot be "*unknown*", it remains the case that the evidence is not admissible in other proceedings and is untested in any court of law. Both Mr Baumann, on behalf of Mambare Pty Limited, and Mr Heufel, have asserted in recent emails to the Party that the donation was a donation by Mr Heufel. (We had queried if they were prepared to make their books and records available to the Party's auditors for the purpose of providing an audit certificate, if the Party could see a way to lodge an Amended Declaration as requested by the Commission. For the record, both declined our request).

You will appreciate that this places Mr Walton, the Party Agent, in a very difficult position. In the declaration which he would be required to give to any Amended Disclosure, he must state that the "*amendments were incorrectly declared in the original disclosure*" and that the donations in the form set out in the amendments were incurred for the Party during the disclosure period. Your requirement contemplates that he must give a declaration, for which he may be prosecuted if incorrect:

1. that the original disclosure was incorrect, when according to the Party's records, it was correct;
2. in which he relies on evidence inadmissible in any other proceedings, which has not been tested in any court of law; and
3. in circumstances where those involved claim that the donation was made by Mr Heufel.

Your letter of 12 May 2016 also did not address the issue that the donations cannot be audited. We have provided our auditors, KPMG, with the relevant information, and they have confirmed that the donations cannot be audited, beyond what is recorded in the Party's accounts.

In such circumstances it is difficult to see how your requirement as to disclosure of these donations can be met. We seek your guidance as to how we can satisfy our obligations.

Balance of Funding

Your letter of 12 May 2016 noted at page 4 that, based on information held by the Electoral Commission, the Commission considers that the Party has received prohibited donations totalling \$599,992, which includes the donations made Vincent Heufel and Harmony Hill. We do not know what information you have available on which you have formed the opinion that the entities noted in your letter of 12 May 2016 were property developers, noting the definition of property developer at section 96GB of the Act.

Nevertheless, the Party reiterates the offer that the Electoral Commission withhold the monies totalling \$599,992, from funding due to the Party from the Elections Campaign Fund for the 2015 State Election and the Administration Fund for the fourth quarter of 2015 and the first three quarters of 2016, which you believe were donated by prohibited donors, pending determination or resolution as to whether the entities were property developers, and for that matter, whether or not the donations were made for State or Federal purposes. On that latter point, after we lodged the Amended Disclosure on 26 May 2016, out of courtesy, we wrote to the donors to the FEF advising them that the donations made to the FEF had now been disclosed as having been made to the Party. We have received two letters in response, asserting that the donations were made for Federal purposes and should not have been disclosed as having been made for State purposes.

Way Forward


For completeness, we should note that in the absence of any early resolution to the provision of the Balance of the Funding, the Party secured short term funding from its bank to cover operating expenses, for which it would otherwise have used the Balance of the Funding. That facility is due for repayment on 17 November 2016.

While we remain of the view that the Electoral Commission is not entitled to withhold funding under sections 70(1) and 97L of the Election Funding Expenditure and Disclosures Act 1981 (**Act**) as there has been no failure by the Party to lodge the "*requisite declaration*", we seek to resolve these matters and comply with our obligations.

In the interests of resolving this matter, it would assist us if you would let us know if the Electoral Commission will release the Balance of the Funding pending further consideration of the Harmony Hill and Heufel donations. We also ask that you let us know if there are any other matters which the Commission considers to be unresolved which, in the opinion of the Commission, would entitle it to continue to withhold the funding due to the Party.

We will contact you shortly to arrange a meeting to discuss the way forward.

Yours sincerely



Chris Stone
State Director



Bruce Walton
Party Agent

LM2016/174

Mr Bruce Walton, Party Agent
Mr Chris Stone, State Director
Liberal Party of Australia – NSW Division
Level 9, 140 William Street
EAST SYDNEY NSW 2010

8 June 2016

Dear Mr Walton and Mr Stone

Amendment to the 2010/11 Declaration of the Liberal Party of Australia (NSW Division)

I acknowledge receipt of your letter of 26 May 2016 in which you enclosed the amended declaration of the Liberal Party (NSW) for the 2010/2011 disclosure period. This related specifically to donations received through the Free Enterprise Foundation. As this amended declaration was lodged with a valid audit certificate, the usual process of data entry and publication on the NSW Electoral Commission's (NSWEC) external website has commenced. The additional Report of Factual Findings from KPMG enclosed with the letter is being reviewed by the NSWEC audit team. However, this report will not be published as it does not form part of the amended disclosure declaration.

The NSWEC also notes that the Liberal Party (NSW) is considering the matter of the Heufel and McCloy donations and intends to respond shortly. This was further reiterated in a letter received from Mr Stone dated 7 June 2016.

Finally, I note your letter dated 26 May 2016 stated that the Liberal Party (NSW) intends to respond in due course to the claim that the Party received prohibited donations.

Yours sincerely



Linda Franklin
Acting Electoral Commissioner
For and on behalf of the NSW Electoral Commission

LIBERAL PARTY OF AUSTRALIA

NEW SOUTH WALES DIVISION

State Director

7 June 2016

The Acting Electoral Commissioner
Electoral Commission NSW
Level 25
201 Kent Street
SYDNEY NSW 2000

Dear Ms Franklin

Heufel And Harmony Hill Donations

I refer to your letter dated 12 May 2016 so far as it relates to donations declared by the Party in 2010/11 as having been made by Harmony Hill Pty Limited in the amount of \$10,000 and Vincent Heufel in the amount of \$100,000.

I note that the next meeting of the Commission will take place on Wednesday 8 June 2016.

We are still considering your request that the Heufel and McCloy donations be disclosed, and in the interests of working to a resolution of the issue, had intended responding before the 8 June meeting, noting that the Commission will not consider the Party's disclosure declaration to be complete until such time as we include these donations.

Unfortunately, the illness and subsequent death of a close family member last weekend has meant that our Party Agent, Bruce Walton, has been away from the office on bereavement leave since last Friday. As such, we have not been able to respond before the Commission meets.

Yours sincerely



Chris Stone
State Director

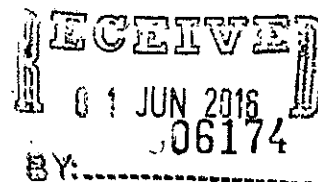
LIBERAL PARTY OF AUSTRALIA

NEW SOUTH WALES DIVISION

State Director

26 May 2016

The Acting Electoral Commissioner
Electoral Commission NSW
Level 25, 201 Kent Street
SYDNEY NSW 2000



Dear Ms. Franklin

Amendment to the 2010/2011 Disclosure Return/Free Enterprise Foundation

We refer to the letters from the Commission dated 11 May 2016 (**Bergeron Letter**) and 12 May 2016 (**Acting Commissioner's Letter**).

Enclosed with this letter are the following documents:

1. Amended Disclosure for a Political Party dated 26 May 2016 (**May Amendment**).
2. Independent Audit Report from KPMG dated 26 May 2016 (**May Audit Report**).
3. Report of Factual Findings from KPMG dated 26 May 2016 (**May Factual Findings Report**).

For avoidance of doubt and for the sake of clarity, the documents listed above replace those lodged with our letter of 27 April 2016 (**April Amendment, April Audit Report and April Factual Findings Report**). The May Amendment does not differ from the April Amendment other than the date it is signed.

As to your comments concerning the invalidity of the April Audit Report, the reference to 5 April 2016 was included given that the information audited by KPMG was reported in the draft amended declaration provided to the Commission on that date. As the declaration was subsequently finalised by the Party Agent on 27 April 2016, KPMG has superseded its previous reporting as indicated in the May Audit Report (refer to "Associated Reporting" section).

You will see that the May Factual Findings Report contains additional information concerning the characterisation of 3 donations totalling \$18,000 made to the Free Enterprise Foundation (FEF) for Federal campaign purposes. Section 85 of the EFED Act defines "political donation". The focus of that definition is the purpose of the donation, and not the use to which the monies are subsequently put. That being said, the purpose of all 3 donations, and the use to which they were put, was for Federal purposes. The donations were made to the FEF in August and September 2010, at the time of the Federal election. They were effectively accrued in the Party's accounts at that time as income. The Party's

records show that the monies received from Vaste Developments related to attendance at a fundraising event at Le Montage held on 17 August 2010.

The purpose of the donation from CGMT (apparently on behalf of Crown International) was confirmed by Mr Iwan Sunito in his evidence before ICAC at a public hearing on 1 May 2016 (T 2981.20 to T 2982.41) to the effect that:

- a. the donation was intended to be for a federal campaign; and
- b. In return for the donation Mr Sunito was allocated a table for ten at a Federal fundraising dinner at Le Montage to be attended by Tony Abbott and tickets to a function at the Four Seasons on Federal Election night.

In the Disclosure of Political Donations and Electoral Expenditure for a Political Party lodged on 26 September 2011, the donation of \$64,000.00 from the FEF was mistakenly classified as being wholly for state campaign purposes whereas it should have been classified as being \$18,000 for federal campaign purposes and \$46,000 for state campaign purposes. The May Amendment corrects this.

The Acting Commissioner's Letter asserts that the donations totalling \$18,000 were not disclosed in the April Amendment. That is not correct. They were disclosed, but classified as having a federal purpose.

We are considering your request that the Heufel and McCloy donations be disclosed, and in the interests of working to a resolution of the issue, will respond shortly, noting that the Commission will not consider the Party's disclosure declaration to be complete until such time as we include these donations.

Finally, and in relation to the claim that the Party received prohibited donations totalling \$599,992, we note *"the NSWEC naturally will consider any information or submissions disputing the NSWEC assertions."* The Party will respond to these assertions in due course.

Yours sincerely,



Chris Stone
State Director



Bruce Walton
Party Agent

Amended Disclosure for a Political Party

The information on this form is collected under the *Election Funding, Expenditure and Disclosures Act 1981* and will be made publicly available. Please refer to the relevant funding and disclosure guide available on the New South Wales Electoral Commission's (NSWEC) website (www.elections.nsw.gov.au) when completing this form.

Disclosure Details

NAME OF POLITICAL PARTY ON WHOSE BEHALF THIS AMENDED DISCLOSURE IS MADE:

Liberal Party of Australia, NSW Division

RELEVANT DISCLOSURE PERIOD:

Declaration — this must be completed by the Party Agent

I, Bruce Walton

INSERT PARTY AGENT NAME

state that I have correctly declared in the original disclosure of political donations and electoral expenditure lodged with the NSWEC and that the donations and or expenditure for the above named political party during the disclosure period.

SIGNATURE OF PARTY AGENT

DATE

26th MAY 2016

Certificate of a Registered Company Auditor (to be completed by the Auditor)

I. Refer attached reports

I certify that

AUDITOR FULL NAME

- a) I was given full and free access at all reasonable times to all accounts and documents of the agent responsible for lodging the declaration and of the party relating directly or indirectly to any matter required to be disclosed under Part 6 of the *Election Funding, Expenditure and Disclosures Act 1981*;
- b) I duly examined such of those accounts and documents as I considered material for the purposes of giving this certificate;
- c) I received all information and explanations that I asked with respect to any matter required to be set out in the declaration, subject to the qualifications (if any) specified in this certificate; and
- d) I have no reason to think that any statement in the declaration is not correct.

AUDITOR'S SIGNATURE

REGISTRATION NO.

DATE

OFFICE USE ONLY

RECEIVED BY

RECEIVED
1 JUN 2016

FILE NO

FADMS DISCLOSURE RECORD NO

BY

06175

Amended Disclosure for a Political Party

Political Party Name: Liberal Party of Australia, NSW Division

Amendments

Amendment Legend: Editing the details of an item = E Omit an item = O Add a new item = A Substitute an item = S

If the amendment is to edit an item listed in the original disclosure indicate using 'E'

If the amendment is to omit an item from your original disclosure indicate using 'O'

If the amendment is to add an item to your original disclosure indicate using 'A'

If the amendment is to substitute an item to your original disclosure indicate using 'S'

Part A. Small Political Donations Received General

Not received at a Fundraising Function or Venture

Total No. of Small Donations Received for State Campaign Purposes	Total Value of Small Donations Received for State Campaign Purposes	Legend (E, O, A or S)
8	\$ 4,050.00	A
Total No. of Small Donations Received for Local Government Campaign Purposes	Total Value of Small Donations Received for Local Government Campaign Purposes	Legend (E, O, A or S)
	\$	
Total No. of Small Donations Received for Party Administration Purposes	Total Value of Small Donations Received for Party Administration Purposes	Legend (E, O, A or S)
	\$	
Total No. of All Donations Above	Total Value of All Donations Above	Legend (E, O, A or S)
8	\$ 4,050.00	

Part B. Reportable Political Donations Received General

Not received at a Fundraising Function or Venture

If more space is required please attach an additional list in the same format

Date Donation was made	Name of Individual (eg. Surname, Given Name or Registered Business Name or Entity)	Enrolled Address of Individual or Registered Official Address of Entity	Registered Business Number (ie. ABN/ACN (Entity Only))	Amount or Value of Donation (\$)	Receipt No.	Gift Type (Monetary/ Non-Monetary)	Purpose (State/LC/ Admin)	Legend (E, O, A or S)
Refer attached list				\$ 2,164.00				
TOTAL				\$ 2,164.00				

Part B. Reportable Political Donations Received General

Date	Donor's name	Address	ABN	Amount	Receipt no.	Gift type	Purpose	Legend
16/08/2010	The Free Enterprise Foundation	GPO Box 292, Canberra ACT 2601	18 121 326 981	(94,000.00)	101958	Monetary	State	Omit
06/12/2010	The Free Enterprise Foundation	GPO Box 292, Canberra ACT 2601	18 121 326 981	(64,000.00)	102121	Monetary	State	Omit
22/12/2010	The Free Enterprise Foundation	GPO Box 292, Canberra ACT 2601	18 121 326 981	(171,000.00)	102115	Monetary	State	Omit
23/12/2010	The Free Enterprise Foundation	GPO Box 292, Canberra ACT 2601	18 121 326 981	(358,000.00)	102119	Monetary	State	Omit
24/12/2010	The Free Enterprise Foundation	GPO Box 292, Canberra ACT 2601	18 121 326 981	(100,000.00)	102120	Monetary	State	Omit
16/12/2010	Adaptive Pty Ltd	65 Atherton Crescent, Wagga Wagga NSW 2650	34 113 317 276	500.00		Monetary	State	Add
16/12/2010	Adaptive Pty Ltd	65 Atherton Crescent, Wagga Wagga NSW 2650	34 113 317 276	800.00		Monetary	State	Add
16/12/2010	Aline Pumps Sales & Service	17 Burns Road, Heathcote NSW 2233	12 684 232 254	1,490.00		Monetary	State	Add
16/12/2010	Allsteel Products Pty Ltd	76 North Crescent, Wyoming NSW 2250	73 133 186 320	1,499.00		Monetary	State	Add
05/11/2010	ANZ Real Estate Consultants Pty Ltd	Suite 206, 10 Norwest Central Century Circuit, Baulkham Hills NSW 2153	90 137 166 806	5,000.00		Monetary	State	Add
18/11/2010	Austral Bricks (NSW) Pty Ltd	738-780 Wallgrove Road, Horsley Park NSW 2175	60 125 934 849	5,000.00		Monetary	State	Add
05/11/2010	Belside Pty Ltd	241-245 Pennant Hills Road, Carlingford NSW 2142	23 003 053 978	10,000.00		Monetary	State	Add
06/12/2010	Big Country Developments Pty Ltd	7 Dickson Avenue, Artarmon NSW 2064	24 000 235 923	9,900.00		Monetary	State	Add
16/12/2010	Boardwalk Resources Pty Ltd	C8 The Boardwalk, 1 Honeyuckle Drive, Newcastle NSW 2300	89 130 433 617	53,000.00		Monetary	State	Add
29/07/2010	Brickworks Limited	738-780 Wallgrove Road, Horsley Park NSW 2175	17 000 028 526	50,000.00		Monetary	Federal	Add
20/12/2010	Brickworks Limited	738-780 Wallgrove Road, Horsley Park NSW 2175	17 000 028 526	125,000.00		Monetary	State	Add
19/08/2010	Crown International Holdings	68 Alfred Street, Milsons Point NSW 2061	68 066 409 541	10,000.00		Monetary	Federal	Add
05/11/2010	D P Smith (Holdings) Pty Ltd	32-34 Toowoomba Bay Road, Long Jetty NSW 2261	13 001 530 696	10,000.00		Monetary	State	Add
17/12/2010	Davis, Athol	10 Linford Place, Beaumont Hills 2155		1,450.00		Monetary	State	Add
16/12/2010	Decortech & Plytech Pty Ltd	6 Millennium Court, Silverwater NSW 2128	19 077 875 346	1,490.00		Monetary	State	Add
13/12/2010	Dribonn Pty Ltd	405 Victoria Street, Wetherill Park NSW 2164	34 068 436 840	1,499.00		Monetary	State	Add
17/12/2010	Elmslea Land Developments Pty Ltd	City Link Plaza, Suite 12, 30 Morriset Street, Queanbeyan NSW 2620	74 066 447 265	20,000.00		Monetary	State	Add
13/12/2010	Epivision Pty Ltd	405 Victoria Street, Wetherill Park NSW 2164	80 003 287 072	1,499.00		Monetary	State	Add
16/12/2010	Firth, Daniel & Maria	10 Bower Parade, Singleton Heights NSW 2230		1,490.00		Monetary	State	Add
17/12/2010	Fleetwood Urban Pty Ltd	71-73 Melbourne Road, Riverstone NSW 2765	40 000 789 748	1,499.00		Monetary	State	Add
16/12/2010	Fooks Pty Ltd trading as Furnware Trading Co.	18 Burns Road, Heathcote NSW 2233	70 130 565 141	1,499.00		Monetary	State	Add
16/12/2010	Fooks Pty Ltd trading as Furnware Trading Co.	18 Burns Road, Heathcote NSW 2233	70 130 565 141	1,499.00		Monetary	State	Add
16/12/2010	Fooks Pty Ltd trading as Furnware Trading Co.	18 Burns Road, Heathcote NSW 2233	70 130 565 141	1,499.00		Monetary	State	Add
16/12/2010	Fooks, Edwin	31 Collinson Street, Tenambit NSW 2323		1,000.00		Monetary	State	Add
17/12/2010	Fooks, Stuart	31 Glenrowan Avenue, Kellyville NSW 2155		1,499.00		Monetary	State	Add
16/12/2010	Gooden, Benjamin trading as Woodchuck Landscape Systems	12 Eggleton Close, Singleton Heights NSW 2330	79 763 264 627	1,499.00		Monetary	State	Add
14/12/2010	Holland Fine Art & Cars Pty Ltd	16-32 McLachlan Avenue, Rushcutters Bay NSW 2010	38 002 457 454	10,000.00		Monetary	State	Add
16/12/2010	Kennard, Daniel	6 Conifer Close, Kariong NSW 2250		1,500.00		Monetary	State	Add
16/12/2010	Kennard, Jerry	144 MacDonalds Road, Lisarow NSW 2250		1,500.00		Monetary	State	Add
16/12/2010	Kennard, Neil	148 MacDonalds Road, Lisarow NSW 2250		750.00		Monetary	State	Add
16/12/2010	Kennard, Priscilla	148 MacDonalds Road, Lisarow NSW 2250		750.00		Monetary	State	Add
16/12/2010	Kennard, Richard	56 Sunset Street, Wyoming NSW 2250		1,500.00		Monetary	State	Add
13/12/2010	Kirkstall Pty Ltd	405 Victoria Street, Wetherill Park NSW 2164	23 003 513 120	1,499.00		Monetary	State	Add
14/12/2010	Levick, Paul on behalf of Jilliby Stage 2 Land Owners Action Group	97 Panonia Road, Wyong NSW 2259		4,000.00		Monetary	State	Add

EF704 - Amended Disclosure for a Political Party - Financial year ended 30 June 2011

The Liberal Party of Australia (NSW Division)

Date	Donor's name	Address	ABN	Amount	Receipt no.	Gift type	Purpose	Legend
08/09/2010	Lin, Mingchi	81 Pymble Avenue, Pymble NSW 2073		5,000.00		Monetary	Federal	Add
13/12/2010	Lorset Pty Ltd	405 Victoria Street, Wetherill Park NSW 2164	79 054 076 514	1,499.00		Monetary	State	Add
28/07/2010	Meriton Apartments Pty Ltd	Level 11, 528 Kent Street, Sydney NSW 2000	75 000 644 888	25,000.00		Monetary	Federal	Add
16/12/2010	Monks, James	76 North Crescent, Wyoming NSW 2250		1,490.00		Monetary	State	Add
16/12/2010	Monks, Peter & Gwennyth	91 Beaumont Avenue, Wyoming NSW 2250		1,000.00		Monetary	State	Add
05/11/2010	Naletran Pty Ltd	241-245 Pennant Hills Road, Carlingford NSW 2142	84 059 753 918	3,000.00		Monetary	State	Add
17/12/2010	Petra Civil Pty Ltd	13-17 Tennant Street, Fyshwick ACT 2609	92 090 448 445	2,000.00		Monetary	State	Add
05/11/2010	PJC Holdings Pty Ltd	181-186 Parramatta Road, Granville NSW 2142	12 132 946 377	2,000.00		Monetary	State	Add
16/12/2010	Pridham, John	97 Meadow Street, Wagga Wagga NSW 2650		1,500.00		Monetary	State	Add
17/12/2010	Printban Pty Ltd	Suite 3.01, 4 Ilya Avenue, Erina NSW 2251	94 052 315 689	10,000.00		Monetary	State	Add
16/12/2010	Pugh, Arthur & Carolyn as trustee for The Advance Precision Trust	1 Juno Parade, Woonona NSW 2517		1,499.00		Monetary	State	Add
05/11/2010	Renlyn Bell Investments Pty Ltd	35 Elabana Crescent, Castle Hill NSW 2154	107 411 763	9,900.00		Monetary	State	Add
17/12/2010	Roseham Pty Ltd as trustee for The Heaney Family Trust	53 Holbeche Road, Arndell Park NSW 2148	59 114 858 089	1,499.00		Monetary	State	Add
13/12/2010	Rumerone Pty Ltd	405 Victoria Street, Wetherill Park NSW 2164	86 003 153 811	1,499.00		Monetary	State	Add
13/12/2010	Seasonsrage Pty Ltd	405 Victoria Street, Wetherill Park NSW 2164	76 629 812 632	1,499.00		Monetary	State	Add
16/12/2010	SFH Pty Ltd as trustee for the Stead Family Trust trading as Grainline	1 Harthog Place, Wagga Wagga NSW 2650	27 936 613 487	375.00		Monetary	State	Add
16/12/2010	SFH Pty Ltd as trustee for the Stead Family Trust trading as Grainline	1 Harthog Place, Wagga Wagga NSW 2650	27 936 613 487	500.00		Monetary	State	Add
16/12/2010	SFH Pty Ltd as trustee for the Stead Family Trust trading as Grainline	1 Harthog Place, Wagga Wagga NSW 2650	27 936 613 487	600.00		Monetary	State	Add
06/12/2010	Shepherd, Anthony	SILENT ELECTOR		1,500.00		Monetary	State	Add
17/12/2010	Shore, Chris	41 Guardian Avenue, Beaumont Hills NSW 2155		1,499.00		Monetary	State	Add
13/12/2010	Smeaton Grange Pty Ltd	405 Victoria Street, Wetherill Park NSW 2164	64 100 748 641	1,499.00		Monetary	State	Add
16/12/2010	Sunbeat Pty Ltd	Suite 3, 10 Wharf Crescent, Pyrmont NSW 2009	73 106 506 156	10,000.00		Monetary	State	Add
13/12/2010	Tesrol Bridge St Pty Ltd	405 Victoria Street, Wetherill Park NSW 2164	99 103 762 803	1,499.00		Monetary	State	Add
13/12/2010	Tesrol Group Projects Pty Ltd	405 Victoria Street, Wetherill Park NSW 2164	28 100 645 172	1,499.00		Monetary	State	Add
13/12/2010	Tesrol Pty Ltd	405 Victoria Street, Wetherill Park NSW 2164	62 179 820 552	1,499.00		Monetary	State	Add
09/12/2010	Threshold Developments Pty Ltd	Suite 5, 34-36 Pacific Highway, Wyong NSW 2259	096 211 933	2,000.00		Monetary	State	Add
20/12/2010	Town & Country Lands Pty Ltd	Level 16, 1 Market Street, Sydney NSW 2000	55 000 017 783	10,000.00		Monetary	State	Add
16/12/2010	Transnational Storage Pty Ltd	3-7 Bryant Drive, Tuggerah NSW 2259	27 089 006 753	12,500.00		Monetary	State	Add
16/12/2010	Truswell, Kenneth trading as K-Set Engineering	79 Thompson Street, East Maitland NSW 2323	69 736 031 934	1,200.00		Monetary	State	Add
19/08/2010	Vaste Developments Pty Ltd	Suite 6, 320 Camden Valley Way, Narellan NSW 2567	30 054 461 433	3,000.00		Monetary	Federal	Add
09/12/2010	Waddell, John on behalf of Precinct 8C Wadalba Lobby Group	138 Murray Farm Road, Beecroft NSW 2119		4,000.00		Monetary	State	Add
22/12/2010	Walker Group Holdings Pty Ltd	Level 21 Governor Macquarie Tower, 1 Farrer Place Sydney NSW 2000	81 001 215 069	100,000.00		Monetary	State	Add
20/12/2010	Washington H Soul Pattinson and Company Ltd	Level 1, 160 Pitt Street Mall, Sydney NSW 2000	49 000 002 728	50,000.00		Monetary	State	Add
16/12/2010	Weltson Pty Ltd	Level 2, 3 Horwood Place, Parramatta NSW 2150	62 090 687 719	5,000.00		Monetary	State	Add
21/12/2010	Westfield Corporation Limited	Level 29, 85 Castlereagh Street, Sydney NSW 2000	12 166 995 197	150,000.00		Monetary	State	Add
17/12/2010	Windsor Farm Equipment Company	429 Windsor Road, Vineyard NSW 2765	12 218 606 081	1,499.00		Monetary	State	Add
05/08/2010	Xiang Rong (Australia) Investment Group	Suite 1907, 109 Pitt Street, Sydney NSW 2000	84 101 611 732	20,000.00		Monetary	Federal	Add
			TOTAL	2,164.00				



Independent audit report to the members of The Liberal Party of Australia, New South Wales Division

We have audited the accompanying 'EF704 Amended Disclosure for a Political Party' of The Liberal Party of Australia, New South Wales Division ("the Party") dated 26 May 2016, for the period 1 July 2010 to 30 June 2011 ("the Amended Disclosure"). The Amended Disclosure has been prepared by Mr Bruce Walton, agent for The Liberal Party of Australia, New South Wales Division ("the Party Agent"), as permitted under Section 88(3) and 96M(1) of the *Election Funding, Expenditure and Disclosures Act of 1981 (NSW) No. 78* ("the Act").

Party Agent's responsibility for the Amended Disclosure

The Party Agent is responsible for the preparation and presentation of the Amended Disclosure in accordance with Section 88 through 95 and 96M(1) of the Act, pursuant to the definitions contained in Section 84 through 87. The Party Agent is responsible for determining the categorisation of political donations and electoral expenditure in accordance with the reportable categories defined in Section 92 through 93.

The Amended Disclosure has been prepared for the purposes of the Party Agent responding to correspondence from the New South Wales Electoral Commission ("the NSWEC"), issued on 23 March 2016, 11 May 2016 and 12 May 2016. This correspondence outlines the view of the NSWEC that certain amounts were not reported in either the original Declaration of the Disclosure of Political Donations and Electoral Expenditure for a Political Party, dated 26 September 2011 ("Original Reporting"), or the Amendment to the Declaration of the EF679 Disclosure of Political Donations and Electoral Expenditure for a Political Party, dated 2 February 2015 ("Previous Amended Reporting"). Those amounts were recorded in the Original Reporting and Previous Amended Reporting as received from The Free Enterprise Foundation. It is the conclusion of the NSWEC the amounts paid by donors to The Free Enterprise Foundation are reportable political donations to the Party and their details are required to be individually and separately disclosed. The Party Agent has also advised, based on verbal instructions received from the NSWEC, that the presentation of the Amended Disclosure is to include a reconciliation of the amounts paid to The Free Enterprise Foundation by the relevant donors, to the amounts paid by The Free Enterprise Foundation to the Party. Additionally, amounts paid by The Free Enterprise Foundation to the Party should not be presented in the Amended Disclosure as reportable political donations.

The Amended Disclosure has been prepared as a supplement to both the Original Reporting and Previous Amended Reporting, specific to the request of the NSWEC and is to be read in conjunction with both the Original Reporting and Previous Amended Reporting to fulfil the Party obligations under Section 84 through 87 of the Act.

The Party Agents' responsibility also includes such internal control as the Party Agent determines necessary to enable the preparation and presentation of an Amended Disclosure that is free from material misstatement whether due to fraud or error.

Auditor's responsibility

Our responsibility is to express an opinion on the Amended Disclosure based on our audit. We conducted our audit in accordance with Australian Auditing Standard 805, pursuant to the audit certificate obligations of Section 96K(1) and 96M(2) of the Act. These Auditing Standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the Amended Disclosure is free from material misstatement. We have also had regard to the determinations made by the NSWEC for the preparation and presentation of the Amended Disclosure, in particular the inclusion of certain amounts paid to and from The Free Enterprise Foundation. Our audit has been completed with regard to the above mentioned standards and regulations.



An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the Amended Disclosure. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial report, whether due to fraud or error.

In making risk assessments, the auditor considers internal control relevant to the Party Agent's preparation and presentation of the Amended Disclosure in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Party Agent's internal control. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of accounting estimates made by the Party Agent, as well as evaluating the overall presentation of the Amended Disclosure. These procedures have been undertaken to form an opinion whether, in all material respects, the Amended Disclosure is presented in accordance with Section 88 through 95 and 96M(1) of the Act, so as to present a view which is consistent with our understanding of the Party's political donations and electoral expenditure.

In respect of amounts paid by donors to The Free Enterprise Foundation, we selected procedures relevant to the examination of the underlying bank statements, deposit books, and other relevant financial records of The Free Enterprise Foundation.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Independence

In conducting our audit, we have complied with the independence requirements of the Accounting Professional and Ethical Standards Board.

Basis for Qualified Opinion

It is not always practicable or possible for the Party Agent to establish effective controls over the completeness of the collection of political donations prior to entry into its financial records. Accordingly, it has been difficult for the Party Agent to establish effective controls over the completeness of information obtained from Party Units of The Liberal Party of Australia, New South Wales Division, and The Free Enterprise Foundation, for the aggregation of political donations. As the evidence available to us regarding the completeness of political donations was limited, our audit procedures with respect to political donations had to be restricted to the amounts recorded in the financial records. Accordingly, we are unable to obtain sufficient evidence that the political donations disclosed within the Amended Disclosure are complete.

It has been difficult for the Party Agent to establish effective controls and procedures over the completeness of electoral expenditure prior to entry into its financial records. Accordingly, we have been unable to obtain sufficient evidence that the electoral expenditure disclosed within the Amended Disclosure is complete.

Political donations received and electoral expenditure incurred by Party Units of the Party, are included within the Amended Disclosure, where the Party Units to The Party have registered political donations and electoral expenditure with The Party Agent. We have been unable to obtain sufficient evidence over the existence, completeness and accuracy of these political donations and electoral expenditure amounts and related disclosure information.

Had we been able to obtain the information we require, matters might have come to our attention indicating that adjustments might be necessary to the Amended Disclosure.

Qualified Auditor's opinion

Except for the possible effects or adjustments to the Amended Disclosure that we might have become aware of had it not been for the limitations on our audit procedures described in the preceding Basis for Qualified Opinion paragraph, in our opinion, the EF704 Amended Disclosure for a Political Party presents, in all material respects, the political donations and electoral expenditures of The Liberal Party



of Australia, New South Wales Division for the period 1 July 2010 to 30 June 2011 in accordance with the disclosure requirements of Part 6 of the *Election Funding, Expenditure and Disclosures Act of 1981 (NSW) No. 78*, as determined by the NSWEC in correspondence received on 23 March 2016.

In carrying out our audit procedures, we note the following matters:

- 1 We were given full and free access at all reasonable times to all accounts and documents of the Party Agent responsible for lodging the Amended Disclosure, The Liberal Party of Australia, New South Wales Division, and The Free Enterprise Foundation, relating directly or indirectly to any matter required to be disclosure under Part 6 of the *Election Funding, Expenditure and Disclosures Act 1981 (NSW) No.78*;
- 2 We duly examined such of those accounts and documents as we considered material for the purposes of giving this report;
- 3 We received all information and explanations that we asked for with respect to any matter required to be set out in the Amended Disclosure, subject to the qualifications outlined in the Basis for Qualified Opinion paragraph; and
- 4 Except for the possible effects or adjustments to the Amended Disclosure that we might have become aware of had it not been for the limitations on our audit procedures described in the preceding Basis for Qualified Opinion paragraph, we have no reason to think that any statement in the declaration is not correct.

Associated Reporting

Our report is to be read in conjunction with our Independent audit reports to the members of The Liberal Party of Australia, New South Wales Division, on both the Original Reporting and Previous Amended Reporting, signed on 29 September 2011 and 3 March 2015, respectively.

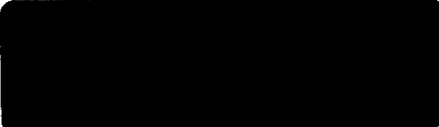
Without modification to the opinion expressed above, attention is drawn to correspondence from the Liberal Party of Australia, New South Wales Division, to the NSWEC on 26 May 2016 describing the basis for reissuance of the Amended Disclosure previously signed and approved by the Party Agent on 27 April 2016. This audit report supersedes our previous independent audit report to the members of The Liberal Party of Australia, New South Wales Division, dated 22 April 2016.

Restrictions on Distribution

Our report is intended solely for the Liberal Party of Australia, New South Wales Division, and the New South Wales Electoral Commission and should not be distributed to or used by parties other than the Party Agent and the New South Wales Electoral Commission. We disclaim any assumption of responsibility for any reliance on this report, or on the Amended Disclosure to which it relates, to any person other than the Party Agent of The Liberal Party of Australia, New South Wales Division and the New South Wales Electoral Commission or for any other purpose than that for which it was prepared.



KPMG



John Wigglesworth

Partner

Auditor registration number: 203423

Sydney

26 May 2016



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Report of factual findings to the members of The Liberal Party of Australia, New South Wales Division

We have performed the procedures agreed with you, The Liberal Party of Australia, New South Wales Division ("the Party"), to report factual findings for the purpose of assisting you, in combination with other information obtained by you, to attest that the donations listed in Appendix 1 were received, banked and used exclusively for federal campaign purposes during the reporting period from 1 July 2010 through 30 June 2011. The procedures are detailed in the terms of engagement dated 21 April 2016 and described below with respect to the appropriate use of political donations to which the agreed-upon procedures have been applied.

Party Agent's responsibility for the procedures agreed

The Party Agent is responsible for the adequacy or otherwise of the procedures agreed to be performed by us, agreeing that the procedures meet their needs. The Party Agent is responsible for determining whether the factual findings provided by us, in combination with any other information obtained, provide a reasonable basis for any conclusions which they wish to draw on the subject matter.

Our responsibility

Our responsibility is to report factual findings obtained from conducting the procedures agreed. We conducted the engagement in accordance with Standard on Related Services ASRS 4400 *Agreed-Upon Procedures Engagements to Report Factual Findings*. We have complied with ethical requirements equivalent to those applicable to Other Assurance Engagements.

Because the agreed upon procedures do not constitute either a reasonable or limited assurance engagement in accordance with Auditing and Assurance standards issued by the Australian Auditing and Assurance Standards Board (AUASB), we do not express any conclusion and provide no assurance on the appropriate use of political donations. Had we performed additional procedures or had we performed an audit or review in accordance with AUASB Standards, other matters might have come to our attention that would have been reported to you.

Factual findings

The procedures were performed solely to assist you in determining the appropriate use of political donations during the reporting period from 1 July 2010 through 30 June 2011. The procedures performed and the factual findings are as follows:

Procedures performed	Factual findings	Errors or exceptions identified
Confirm donations were received.	All "Posting Amounts" listed in Appendix 1 were recorded as received by the Liberal Party of Australia, New South Wales Division, from the Free Enterprise Foundation within the General Ledger.	None identified.
Confirm donations were banked.	The "Bank Deposit Amounts" listed in Appendix 1 were agreed to transactions deposited per bank	None identified.



	statements of the Liberal Party of Australia, New South Wales Division on the date listed as the "Bank Deposit Date".	
Confirm donations reported by you as used exclusively for federal campaign purposes.	The "Posting Amounts" listed in Appendix 1 were recorded to the federal campaign account maintained by the Liberal Party of Australia, New South Wales Division listed as the "General Ledger Account" of the date listed as the "Posting Date".	None identified.
Sight additional documentation in respect of the \$18,000 donation reported by you as used for federal purposes.	The dates, amounts, and general ledger account descriptions were agreed to the accounts and documents of the Party as listed in Appendix 1.	None identified.

Distribution and use of report

This report is intended solely for the use of the Liberal Party of Australia, New South Wales Division, and the New South Wales Electoral Commission for the purpose set out above. As the intended users of our report, it is for you to assess both the procedures and our factual findings to determine whether they provide, in combination with any other information you have obtained, a reasonable basis for any conclusions which you wish to draw on the subject matter.

As required by ASRS 4400, use of this report is restricted to the Liberal Party of Australia, New South Wales Division, the intended users, who have agreed the procedures to be performed with us, since others, unaware of the reasons for the procedures, may misinterpret the results. This report should not be distributed to parties other than the intended users. Accordingly, we expressly disclaim and do not accept any responsibility or liability to any party other than the Liberal Party of Australia, New South Wales Division, for any consequence of distribution of or reliance on our report for any purpose.



KPMG



John Wigglesworth

Partner

Auditor registration number: 203423

Sydney

26 May 2016



Appendix 1 – Political Donations received, banked and used exclusively for federal campaign purposes during the reporting period from 1 July 2010 through 30 June 2011

General Ledger Account	Posting Date	Posting Amounts	Bank Deposit Date	Bank Deposit Amounts
#1715 – “Revenue Federal Campaign Donations”	16 August 2010	\$94,000	16 August 2010	\$94,000
#1710 – “Revenue Federal Campaign Accrued Income”	12 August 2010	\$5,000*	23 December 2010	\$64,000
#8400 – “Fees in Advance”	19 August 2010	\$3,000*		
#8400 – “Fees in Advance”	19 August 2010	\$10,000*		

* The additional documentation sighted in respect of this \$18,000 donation has been detailed below:

Description of additional documentation sighted	Nature of documentation sighted within the ‘accounts and documents’ of the Party
Transfer within general ledger account (GL1700-170), being labelled as the “federal campaign revenue” account, showing income transferred from “fees in advance” (GL8400-79).	general ledger extract
General ledger batch #36747 showing of transfer of income and expenditure from “fees in advance” account (GL8400-79) and “payments in advance” account to “federal election revenue” general ledger account (GL1700-170) and “federal election event expenditure” general ledger account.	general ledger batch #36747
Accrual of the income from “Vaste” and “Crown” within the “federal campaign revenue” account (GL1700-170).	manual journal entry description
Income and expenditure worksheet maintained for the “Federal election supporter’s dinner” held on 17 August 2010 showing income accrued from “Vaste” and “Crown”.	income and expenditure worksheet

Bruce Walton, Party Agent
Chris Stone, State Director
Liberal Party of Australia – NSW Division
Level 9, 140 William Street
EAST SYDNEY NSW 2010

12 May 2016

Dear Mr Walton and Mr Stone

**(1) Amendment to the 2010/2011 Declaration of the Liberal Party of Australia
(NSW Division)**

I refer to your letter of 27 April 2016 with which you enclosed the amended declaration of the Liberal Party (NSW) for the 2010/2011 disclosure period, specifically relating to donations received through the Free Enterprise Foundation (FEF) which has now been audited. The letter said it was in response to the letter of 11 April 2016 from the NSWEC's Mr Bergeron. That letter did not request any specific changes to be made to the declaration that the Party had originally lodged. It is the Party's responsibility to lodge a declaration (or an amended declaration) that states what reportable political donations have been made. If the Party does not accept any of the matters to which Mr Bergeron drew attention, the Party would not be complying with its obligations if it were to file an amended declaration merely for the sake of satisfying Mr Bergeron's concerns. The Party can only comply with its obligations by filing a declaration on the basis that the declaration is accurate in every respect.

Invalid audit certificate

The amended declaration is invalid pursuant to the operation of s 96K and s 96M(2) of the *Election Funding, Expenditure and Disclosures Act 1981* [EFEDA Act], due to a fundamental irregularity with the audit certificate. The audit report prepared by KPMG that accompanied the declaration referred to an amended disclosure form dated 5 April 2016, while the amended declaration provided by the Party Agent was dated 27 April 2016.

An unaudited "draft" amendment initially sent to the NSWEC was dated 5 April 2016 and signed by Anthony Nutt. On 5 April 2016 Mr Walton was the appointed Party Agent. The amended declaration submitted by the Party on 27 April 2016 and signed by what would appear to be Bruce Walton, Party Agent, contained additional or altered disclosures compared to the draft of 5 April.

Accordingly, the NSWEC seeks explanation from you and/or confirmation from KPMG with regards to the content of the disclosure form that was audited by KPMG, as we are concerned that it may not be consistent with the disclosure form received. These issues will need to be settled before the NSWEC considers the amended declaration to be complete.

The letter of 27 April 2016 also raised a number of issues to which I would like to respond individually.

The FEF donation of \$64,000 received on 6 December 2010

The disclosure relating to the 2010/2011 disclosure period provided to the EFA on 29 September 2011 included, in the list of donations that the Party had received for State election purposes, a donation from FEF of \$64,000 that the Party received on 23 December 2010. The amended declaration that was enclosed with your letter of 27 April 2016 omitted that donation of \$64,000, and included appropriate details of those who had provided to the Free Enterprise Foundation all but \$18,000 of that \$64,000. The omission of the disclosure of that \$18,000 was justifiable, you contended, because the \$18,000 had been used for federal election campaign purposes. Officers of the Commission had requested further information showing that the \$18,000 was used for federal election campaign purposes.

In your letter of 27 April 2016 you assert that "the NSW Electoral Commission has no jurisdiction in relation to donations made for federal election campaign purposes", but that you have provided certain information "without any admission that the NSW Electoral Commission has jurisdiction or that we are bound to do so". The NSWEC does not accept that it lacks power to enquire whether a donation that it was told, in a formal declaration, at one time had been used for State election campaign purposes, and then was told at another time had been used for federal election campaign purposes, had in truth been used for federal election campaign purposes. There was no agreement between the Liberal Party (NSW) and the NSWEC that such a report from KPMG would be acceptable.

The relevant claims for payment are made under Part 5 and Part 6A of the EFED Act. Under ss 70 and 97L of the EFED Act, a precondition of eligibility for payment is that all requisite declarations under Part 6 for a past period have been made. The declaration that is required to be made under Part 6 includes disclosure of all reportable political donations. If a donation was in fact used for State political purposes, and is of more than \$1,000, it is a reportable political donation: see s 85(1)(d) of the EFED Act and para 18(ii) of the Summary of Facts dated 23 March 2016. There is an obligation under s 64(3) and s 97K of the EFED Act to provide such information as the NSWEC may require in connection with the payment. Under s 97J(5), a precondition of the NSWEC's obligation to make a payment is that the NSWEC has received, amongst other things, information or evidence that it requires under (inter alia) s 97K of the EFED Act.

The statement contained in the original declaration lodged by the Party Agent that the whole of the \$64,000 was a donation for State electoral purposes is, in the view of the NSWEC, entitled to considerable weight. Under s 96H(2) of the EFED Act it is an offence for a person to make a statement in a declaration that the person does not reasonably believe is true. Unless it had reason to believe otherwise, the NSWEC would accept that there were reasonable grounds for believing that the whole of the \$64,000 had been used for State electoral purposes.

The audit report attached to your letter of 27 April 2016 shows that, according to FEF's accounting records, the amounts that make up the \$18,000 in question were received by FEF in August 2010. However, they were not passed on to the Party until 23 December 2010. While there was a federal election on 21 August 2010, no federal election was imminent in December 2010. The sole basis upon which the audit report enclosed with your letter of 27 April 2016 expresses the view that the \$18,000 was used for federal purposes is an entry in the Party's ledger account. There is also no evidence indicating that the respective donors stated that the donations were for the purposes of the federal election alone.

When the Party's earlier declaration said that the whole of the \$64,000 had been used for State electoral expenses, when the federal election was some months past at the time the \$64,000 was received by the Party, and when the qualifications to the audit opinion enclosed with the Party's letter of 27 April 2016 express some lack of confidence in the completeness and reliability of the electoral expenditure records of the Party, the NSWEC requires more information than simply a posting in a party ledger account to satisfy it that the Party's original statement, that the whole of the \$64,000 was used for State electoral expenses, is wrong.

The NSWEC recognises that it is possible that there could have been some bills relating to the federal electoral campaign that remained unpaid in December 2010, and that the \$18,000 was used to pay those bills relating to the federal electoral campaign. However, without information showing that that is in fact the case, the NSWEC is at present unpersuaded that your original statement about the \$64,000 being for State electoral purposes is incorrect. Moreover, a donation that was not earmarked or devoted exclusively to the federal election of 2010 remains capable of being characterised as related to the State election. How the Party spent the money is not conclusive.

The NSWEC considers that the Party's procedures to "Confirm donations were used exclusively for federal campaign purposes" are insufficient to substantiate the assertions that the donations were used for federal purposes; neither the Party nor KPMG specifically addressed why these donations were reallocated from State purposes in the original 2011 declaration, to federal purposes in the 2016 amended declaration. I note that the KPMG report does not express an opinion on the use of funds, but rather simply factually reports on the result of procedures it had agreed with the Party.

Moreover, even if donations had been recorded as received in relation to a federal fundraising event, the funds could have been used for State campaign purposes. The requirements for parties concerning the State campaign account only came into effect on 1 January 2011; s 96(5)(e) of the EFED Act provides as follows:

- (5) The following may be paid into the State campaign account of a party:
 - ... (e) money belonging to the party on 1 January 2011 (including the proceeds of the investment or disposal of any other property belonging to the party on or before that date).

As the relevant donations were accounted for and received in 2010, the amounts could have been transferred into the State campaign account and used in respect of the March 2011 State General Election. I note this possibility is bolstered by the fact, mentioned above, that these donations were only deposited in a bank account belonging to the Party in December 2010, more than three months after the federal election of August that year.

Therefore, unless the Party further amends its declaration to include the three donations totalling \$18,000, the NSWEC requires more evidence to substantiate their alleged use for exclusively federal purposes. If such further amendment is made to the declaration, the audit certificate should clearly identify by date the relevant declaration.

Heufel and McCloy donations

I note your concerns as to the use of evidence given in the course of hearings conducted by the Independent Commission Against Corruption [ICAC], namely that it is "not admissible in any other proceedings". I agree that such evidence could not be used against the person who in fact gave it to the ICAC. As you are no doubt aware, s 37(4) of the *Independent Commission Against Corruption Act 1988* provides that such evidence is inadmissible in evidence against the person in any civil or criminal proceedings or in any disciplinary proceedings. Accordingly, there is no prohibition on anyone obtaining knowledge from that evidence, only on it being used as evidence in a particular way in legal proceedings. The evidence published on the ICAC website tells anyone who reads it about certain facts, and once a reader – which includes the NSWEC – knows those facts, they cannot be un-known.

Moreover, I do not consider that the timing of the publication of the ICAC report of Operation Spicer impacts at all on the NSWEC exercising its responsibilities under the EFED Act. The information which led to the decision that certain donations had not been disclosed, some of which were made by prohibited donors, did indeed come out of the ICAC investigation; however, the only difference the publication of the ICAC report might make to the matters at hand would be to provide evidence of additional prohibited donations.

Accordingly, unless the Heufel and McCloy donations are included in the Party's declaration, the NSWEC will not consider that it is complete.

(2) Recovery of unlawful political donation pursuant to s 96J of the EFED Act

Pursuant to s 96J(1) of the EFED Act, if a person accepts a political donation, loan or indirect campaign contribution that is unlawful because of Part 6 of that Act, an amount equal to the amount or value of the donation, loan or contribution (or double the amount if the person knew that it was unlawful) is payable by that person to the State.

Based on the evidence which the NSWEC has to date, it presently appears that the Liberal Party (NSW) has been in receipt of prohibited donations in the amount of \$599,992.00. The relevant donations are detailed below.

Although the NSWEC is empowered to recover this amount on behalf of the State, the NSWEC presently intends to exercise its powers under s 70(2) (in respect of the Election Campaigns Fund) and s 97L(2) (in respect of the Administration Fund) of the EFED Act to deduct the amount from payments otherwise due to the Liberal Party (NSW) under the EFED Act. This can only take place if and when the Party has provided the NSWEC with a complete amended declaration, as outlined above. As regards the NSWEC's claim that the donations below came from prohibited donors, the NSWEC naturally will consider any information or submissions disputing the NSWEC assertions.

The Free Enterprise Foundation [FEF]

By deed made on or about 20 August 1981 between Denis Mervyn Davies (therein called "the Settlor") and Anthony Joseph Bandle and Charles James Fox ("the Trustees" and known therein as "the Council") ("the FEF Trust Deed"), a trust was purportedly established of certain moneys and property, referred to in the FEF Trust Deed as "the Trust Fund" and to be known as "The Free Enterprise Foundation". The FEF Trust Deed provided that the Trustees would hold the Trust Fund upon trust to pay apply or transfer it to the Council or as directed by the Council if and when requested to do so by the Council, and in the meantime would hold the Trust Fund as nominees for the Council.

The NSWEC has indicated in para 18 of the Summary of Facts dated 23 March 2016 why donations channelled through FEF did not lose their character as donations by the original donors. I note the opinion in your letter of 27 April 2016 to the effect that "the legal position in relation to the donations made to the FEF is very complex and by no means certain". You provide no basis for that assertion. Your solicitors have accepted that a valid trust must be for the benefit of legal persons or charitable purposes; the FEF is neither. The NSWEC maintains that the FEF Trust Deed is defective; that it did not create a valid trust; and the donations were made by a range of prohibited donors knowingly and directly to the Liberal Party (NSW), based on the facts set out below.

Prohibited donation originating from Westfield Limited

In and throughout December 2010, both Westfield Limited (now known as Scentre Limited) and Westfield Management Ltd (now known as Scentre Management Limited) were corporations engaged in a business that regularly involved the making of relevant planning applications by or on behalf of the corporation in connection with residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit. At that time, Westfield Limited was, within the meaning of the Corporations Act, a related body corporate of Westfield Management Ltd, and, within the meaning of Part 6 Division 4A of the EFED Act, a "close associate" of Westfield Management Ltd. Therefore, within the meaning of Part 6 Division 4A of the EFED Act it was:

- (a) a property developer; and
- (b) a prohibited donor.

On or about 21 December 2010, Westfield Limited gave \$150,000.00 to the Trustees, requesting that the donation be paid by them to the Liberal Party (NSW). This request was communicated to Mr Bandle by a representative of the Liberal Party (NSW). This payment formed part of the total payment on 22 December 2010 of \$171,000.00, or alternatively was part of the amount paid on 23 December 2010 of \$358,000.00, purportedly made by the Trustees and was a political donation to or for the benefit of the Liberal Party (NSW).

Prohibited donation originating from Walker Group Holdings Pty Limited

In and throughout December 2010, both Walker Group Holdings Pty Ltd and Walker Corporation Pty Limited were corporations engaged in a business that regularly involved the making of relevant planning applications by or on behalf of the corporation in connection with residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit. At that time, Walker Group Holdings Pty Ltd was, within the meaning of the Corporations Act, a related body corporate of Walker Corporation Pty Limited, and, within the meaning of Part 6 Division 4A of the EFED Act, a "close associate" of Walker Corporation Pty Ltd.

Therefore, Walker Group Holdings Pty Ltd was within the meaning of Part 6 Division 4A of the EFED Act:

- (a) a property developer; and
- (b) a prohibited donor.

On or about 22 December 2010, Walker Group Holdings Pty Ltd gave \$100,000.00 to the Trustees. This sum was an amount equal to the \$100,000.00 donation purportedly made by the Trustees on 24 December 2010 and was a political donation to or for the benefit of the Liberal Party (NSW).

Prohibited donation originating from Elmslea Land Developments Pty Limited

In and throughout December 2010 Elmslea Land Developments Pty Limited was a corporation engaged in a business that regularly involved the making of relevant planning applications by or on behalf of the corporation in connection with residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit. Therefore, within the meaning of Part 6 Division 4A of the EFED Act, it was:

- (a) a property developer; and
- (b) a prohibited donor.

On or about 15 December 2010, Elmslea Land Developments Pty Limited gave \$20,000.00 to the Trustees, requesting that the donation be paid by them to the Liberal Party (NSW). This payment was part of the total payment purportedly made by the Trustees on 22 December 2010 of \$171,000.00, or alternatively was part of the amount paid on 23 December 2010 of \$358,000.00, and was a political donation to or for the benefit of the Liberal Party (NSW).

Prohibited donation originating from Printban Pty Limited

In and throughout December 2010 Printban Pty Limited was a corporation engaged in a business that regularly involved the making of relevant planning applications by or on behalf of the corporation in connection with residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit. Therefore, within the meaning of Part 6 Division 4A of the EFED Act it was:

- (a) a property developer; and
- (b) a prohibited donor.

On or about 16 December 2010, Printban Pty Limited gave \$10,000.00 to the Trustees, requesting that the donation be paid by them to the Liberal Party (NSW). This request was communicated to Mr Bandle by a representative of the Liberal Party (NSW). This payment was part of the total payment purportedly made by the Trustees on 22 December 2010 of \$171,000.00, or alternatively was part of the amount paid on 23 December of \$358,000.00, and was a political donation to or for the benefit of the Liberal Party (NSW).

Prohibited donation originating from Austral Brick Co Pty Ltd

In and throughout December 2010, Brickworks Ltd was a corporation engaged in a business that regularly involved the making of relevant planning applications by or on behalf of the corporation in connection with residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit. At that time, Austral Brick Co Pty Ltd was, within the meaning of the Corporations Act, a related body corporate of Brickworks Ltd, and a "close associate", within the meaning of Part 6 Division 4A of the EFED Act, of Brickworks Ltd.

Therefore, Austral Brick Co was, within the meaning of Part 6, Division 4A of the EFED Act:

- (a) a property developer; and
- (b) a prohibited donor.

On or about 8 December 2010, Austral Brick Co Pty Ltd gave \$125,000.00 to the Trustees, requesting that the donation be paid by them to the Liberal Party (NSW). This payment was part of the total payment purportedly made by the Trustees on 22 December 2010 of \$171,000.00, or alternatively was part of the amount paid on 23 December of \$358,000.00, and was a political donation to or for the benefit of the Liberal Party (NSW).

Second prohibited donation originating from Austral Brick Co Pty Ltd

On or about 18 November 2010, Austral Brick Co Pty Ltd gave \$5,000 to the Trustees, requesting that the donation be paid by them to the Liberal Party (NSW). This sum formed part of the total payment in the amount of \$64,000.00 purportedly made by the Trustees on or around 23 December 2010, and was a political donation to or for the benefit of the Liberal Party (NSW).

Prohibited donation originating from Tesrol Holdings Pty Ltd

In and throughout December 2010, Tesrol Holdings Pty Ltd (now known as Palmundalier Pty Ltd) was a corporation engaged in a business that regularly involved the making of relevant planning applications by or on behalf of the corporation in connection with residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit. At that time, the following companies were, within the meaning of the Corporations Act, related bodies corporate of Tesrol Holdings:

- i. Tesrol Group Projects Pty Ltd;
- ii. Seasonsrage Pty Ltd;
- iii. Smeaton Grange Pty Ltd;
- iv. Rumerone Pty Ltd;
- v. Lorset Pty Ltd;
- vi. Kirkstall Pty Ltd;
- vii. Epivision Pty Ltd; and
- viii. Dribonn Pty Ltd (collectively "the Tesrol Companies").

In and throughout December 2010, each of the Tesrol Companies was a close associate, within the meaning of Part 6 Division 4A of the EFED Act, of Tesrol Holdings, and therefore within the meaning of Part 6 Division 4A of the EFED Act:

- (a) a property developer; and
- (b) a prohibited donor.

On or about 13 December 2010, each of the Tesrol Companies gave an amount of \$1,499.00 to the Trustees, amounting to \$11,992.00, requesting that the donations be paid by them to the Liberal Party (NSW). This request was communicated to Mr Bandle by a representative of the Liberal Party (NSW). This payment was part of a total payment in the amount of \$171,000 purportedly made by the Trustees on 22 December 2010 and/or on 23 December 2010 as part of a larger sum of \$358,000.00, and was a political donation to or for the benefit of the Liberal Party (NSW).

Prohibited donation originating from Vaste Developments Pty Ltd

In and throughout August 2010, Vaste Developments Pty Ltd was a corporation engaged in a business that regularly involved the making of relevant planning applications by or on behalf of the corporation in connection with residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit. Therefore, within the meaning of Part 6 Division 4A of the EFED Act, it was:

- (a) a property developer; and
- (b) a prohibited donor.

On or about 19 August 2010, Vaste Developments Pty Ltd gave \$3,000.00 to the Trustees, requesting that the donation be paid by them to the Liberal Party (NSW). This request was communicated to Mr Bandle by a representative of the Liberal Party

(NSW). This payment was part of a total payment in the amount of \$64,000.00 purportedly made by the Trustees on 23 December 2010 and was a political donation to or for the benefit of the Liberal Party (NSW).

Prohibited donation originating from Threshold Developments Pty Ltd

In and throughout December 2010, Threshold Developments Pty Ltd was a corporation engaged in a business that regularly involved the making of relevant planning applications by or on behalf of the corporation in connection with residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit. Therefore, within the meaning of Part 6 Division 4A of the EFED Act it was:

- (a) a property developer; and
- (b) a prohibited donor.

On or about 9 December 2010, Threshold Developments Pty Ltd gave \$2,000.00 to the Trustees, requesting that the donation be paid by them to the Liberal Party (NSW). This request was communicated to Mr Bandle by a representative of the Liberal Party (NSW). This payment was part of a total payment in the amount of \$171,000 purportedly made by the Trustees on 22 December 2010 and/or on 23 December 2010 as part of a larger sum of \$358,000.00, and was a political donation to or for the benefit of the Liberal Party (NSW).

Prohibited donation originating from Holland Fine Arts and Cars

In and throughout December 2010, IDA Safe Constructions Pty Ltd was a corporation engaged in a business that regularly involved the making of relevant planning applications by or on behalf of the corporation in connection with residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit. At that time, Holland Fine Arts and Cars Pty Ltd ("Holland Fine Arts") was, within the meaning of the Corporations Act, a related body corporate of IDA Safe Constructions Pty Ltd; and a "close associate", within the meaning of Part 6 Division 4A of the EFED Act, of IDA Safe Constructions Pty Ltd.

Therefore, Holland Fine Arts was, within the meaning of Part 6, Division 4A of the EFED Act:

- (a) a property developer; and
- (b) a prohibited donor.

On or about 8 December 2010, Holland Fine Arts gave \$10,000.00 to the Trustees, requesting that the donation be paid by them to the Liberal Party (NSW). The payment was part of a total payment in the amount of \$171,000.00 purportedly made by the Trustees on or around 22 December 2010, or alternatively on or around 23 December 2010 as part of a total payment in the amount of \$358,000, and was a political donation to or for the benefit of the Liberal Party (NSW).

Prohibited donation from Boardwalk Resources Pty Ltd on behalf of Buildev

In and throughout December 2010, Buildev Development (NSW) Pty Ltd ('Buildev') was engaged in a business that regularly involved the making of relevant planning

applications by or on behalf of the corporation in connection with residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit. Therefore, Buildev was within the meaning of Part 6, Division 4A of the EFED Act:

- (a) a property developer; and
- (b) a prohibited donor.

Section 96GA(2) of the EFED Act provides that it is unlawful for a person to make a political donation on behalf of a prohibited donor.

On or about 13 December 2010, Boardwalk Resources Pty Ltd gave \$53,000.00 to the Trustees (in two payments of \$35,000 and \$18,000), requesting that the donations be paid by them to the Liberal Party (NSW). These payments were political donations made on behalf of Buildev, a prohibited donor, to or for the benefit of the Liberal Party (NSW).

Prohibited donation from Vincent Heufel on behalf of Mambare Pty Ltd

In and throughout November 2010, Mambare Pty Ltd was a corporation engaged in a business that regularly involved the making of relevant planning applications by or on behalf of the corporation in connection with residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit. At that time therefore, Mambare Pty Ltd was, within the meaning of Part 6, Division 4A of the EFED Act:

- (a) a property developer; and
- (b) a prohibited donor.

Section 96GA(2) of the EFED Act provides that it is unlawful for a person to make a political donation on behalf of a prohibited donor.

Mr Craig Baumann was at that time the sole shareholder of Mambare Pty Ltd and the Liberal Party (NSW) elected member for Port Stephens.

On 30 November 2010 Mr Vincent Heufel made a \$100,000 donation to the Liberal Party (NSW). This donation was made on behalf of Mr Baumann in lieu of a periodic payment in that amount for a residential dwelling being erected by Mambare Pty Ltd for Mr Heufel.

Prohibited donation from Harmony Hill Pty Limited on behalf of Jeff McCloy

In and throughout October 2010, Mr Jeff McCloy was a director of one or more corporations engaged in a business that regularly involved the making of relevant planning applications by or on behalf of the corporation in connection with residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit. At that time therefore, Mr McCloy was, within the meaning of Part 6, Division 4A of the EFED Act:

- (a) a property developer; and
- (b) a prohibited donor.

Section 96GA(2) of the EFED Act provides that it is unlawful for a person to make a political donation on behalf of a prohibited donor.

On 6 October 2010 Mr McCloy gave a donation of \$10,000 in cash to Mr Andrew Cornwell. Mr Cornwell was the candidate of the Liberal Party (NSW) for the seat of Charlestown at the 2011 State General Election. Mr Cornwell gave the donation to the Treasurer of the Charlestown Branch of the Liberal Party (NSW), Mr Robin Beaven.

On 12 November 2010 Mr Beaven deposited the donation into the account of a company which he owned, Harmony Hill Pty Limited. He subsequently withdrew the money and deposited it into the Charlestown SEC account, as if it were a donation made by Harmony Hill; this was disclosed as a donation received by the Liberal Party. Despite this process, the payment was a political donation from Mr McCloy to or for the benefit of the Liberal Party (NSW).

Acceptance by the Liberal Party (NSW)

Each of the above-mentioned donations was accepted by Mr Simon McInnes in November and December 2010 in his capacity as party agent for and on behalf of the Liberal Party (NSW).

Finally, I note that the next scheduled NSWEC meeting is set for Wednesday 8 June 2016. If however, you are able to supply the NSWEC with the information requested herein so that the NSWEC may be able to consider the amended declaration complete, an early extraordinary meeting can be convened.

Yours sincerely



Linda Franklin
Acting Electoral Commissioner
for and on behalf of the NSW Electoral Commission

Mr Bruce Walton
Private Bag No. 2
Kings Cross, NSW 1340

Ref: 2011/912-34

11 May 2016

Audit Assessment – Liberal Party of Australia New South Wales Division – Amended Disclosure for the Period Ending 30 June 2011

Dear Mr Walton,

Pursuant to the provisions of clause 33 of the Election Funding, Expenditure and Disclosures Regulation 2009 (the Regulation), a compliance audit has been undertaken in respect to the amended disclosure declaration for the period ending 30 June 2011 lodged by you with the Commission in your capacity as the official agent for the above mentioned party.

The compliance audit is to ensure compliance with the requirements of Part 6 of the *Election Funding, Expenditure and Disclosures Act 1981* (the Act) and includes the declaration, disclosures and all accompanying documents lodged with the Commission.

The compliance audit has identified the following items as requiring your attention:

Auditor certificate

The audit report signed by KPMG on 22 April 2016 and lodged with your declaration refers to the amended disclosure dated 5 April 2016. The amended disclosure declaration form signed and lodged by you is dated 27 April 2016.

The requirements under s.96M and s.96K of the Act are not met as the audit report provided is not considered to accompany the amended disclosure declaration lodged.

Please provide a valid audit certificate to accompany your amended disclosure declaration.

Donations in the amount of \$18,000 now disclosed for Federal purpose

We note that the report of factual findings prepared by KPMG states that the procedures were agreed with the Liberal Party of Australia, New South Wales Division (the Party) and the Electoral Commission NSW. We note that the Commission has not discussed or agreed these procedures with KPMG and was not provided with the terms of the engagement.

We have nonetheless reviewed the report, including the results of procedures to "confirm donations were used exclusively for federal campaign purposes". We believe these procedures are not sufficient to substantiate the assertion that the donations were used for federal purposes.

We note that:

- Based on a review of our own 2011 disclosure audit file, two donations (\$3,000 and \$10,000) were allocated to account #8400-79, 'Fees in Advance 17 Aug 10 Supporter Dinner', an account classified as a liability in the Party's chart of account. This seems inconsistent with a donation received or to be received, which would generally involve the recognition of an income, not a liability.

- KPMG does not appear to have reviewed subsequent general ledger transactions, including reallocations from these accounts. We understand that such reallocations have occurred as the balance of account #8400-79 is nil at year-end.
- The \$18,000 (part of the \$64,000 FEF donation) was only deposited in a Party bank account on 23 December 2010, more than four months after the 2010 Federal Election.

Please provide an explanation for the change of purpose of these donations and additional information in support of the funds being used for Federal campaign purposes.

It would be appreciated if a response to the matters raised above could be dealt on or before 2 June 2016.

Other

The compliance audit was based on the information and documentation received to date by the Commission. Nonetheless, should any new or additional information come to the Commission's attention which indicate an apparent breach of the Act or Regulations they will be considered and dealt with in terms of the Act and the Commission's documented policies.

Please do not hesitate to contact Hugo Bergeron, Assistant Director - Compliance, hugo.bergeron@elections.nsw.gov.au or on (02) 9290 5211 if you have any matters you wish to discuss or that require clarification.

Yours Sincerely,



Hugo Bergeron
Assistant Director - Compliance

LIBERAL PARTY OF AUSTRALIA

NEW SOUTH WALES DIVISION

State Director

27 April 2016

The Acting Electoral Commissioner
Electoral Commission NSW
Level 25, 201 Kent Street
SYDNEY NSW 2000

Dear Ms. Franklin

Amendment to the 2010/2011 Disclosure Return/Free Enterprise Foundation

We refer to the letter from Mr Bergeron to Mr Walton dated 11 April 2016.

We enclose the Party's amended disclosure for the 2010/2011 Financial Year relating to donations received from the Free Enterprise Foundation (FEF) which has now been audited. The audit was possible as the Trustee of the FEF kindly agreed to provide the necessary documents to our auditors, at the Party's cost.

In relation to the numbered paragraphs in Mr Bergeron's letter of 11 April 2016, we respond as follows:

- 1 In relation to the amount of \$18,000 received from the FEF on 6 December 2010 (part a receipt of \$64,000), we note the NSW Electoral Commission will require further information showing that these monies were used for federal election campaign purposes. We note that the NSW Electoral Commission has no jurisdiction in relation to donations made for federal election campaign purposes, however, as we have done previously, we have asked our auditors, KPMG, to provide a report of factual findings that the donations in question were received, banked and then used exclusively for federal election campaign purposes. A copy of that report is enclosed. Given that the NSW Electoral Commission has accepted a report of this nature before regarding confirmation of donations being received and used for federal election campaign purposes, we assume that this report will be acceptable to the Commission as evidence to support the source and application of the funds.

As to Mr Bergeron's comment that the donation from the FEF of \$94,000 dated 16 August 2010 has not been amended to disclose the original donors, we repeat our comment that the NSW Electoral Commission has no jurisdiction in relation to donations made and used for federal election campaign purposes. In Mr Nutt's letter of 5 April 2016, for transparency, we provided you with a separate list of those donors. As Mr Bergeron has requested that we do so, we have included those donations in the amended disclosure without any admission that the NSW Electoral Commission has jurisdiction or that we are bound to do so. These donations have also been covered by KPMG's report of factual findings as evidence to support the source and application of the funds.

- 2 Again, as Mr Bergeron has requested we do so, we have included the amount of \$6,214 retained by the FEF as fundraising expenditure. Please note that \$1,000 of that amount was for federal election campaign purposes.
- 3 The Party's accounts record that the donation was made by Mr Heufel on 30 November 2010. In lodging the disclosure for the financial year ended 30 June 2011, the Party relied on its records, and until evidence was given before ICAC, had no knowledge of any arrangements which may have been made by Mr Baumann, his company, or Mr Heufel. The Party has no investigatory powers to look behind every donation and you would be aware that evidence given before ICAC is not admissible in any other proceedings. An added difficulty is that the ICAC Report into Operation Spicer has not been handed down. Importantly, there is no audit trail behind what on its face was a donation from Mr Heufel. We wish to fully co-operate to resolve this issue, but ask that you provide some guidance as to how the Party can lodge an amendment when the evidence before ICAC is not admissible in any other proceedings, the ICAC report has not in any event been handed down, and the donation cannot be audited beyond what is recorded in the Party's accounts. There may further instances similar to this when the ICAC report into Operation Spicer is handed down so your guidance in how these should be handled is important.
- 4 We make the same comments as in 3 above in relation to the donation made by Harmony Hill Pty Limited.
- 5 The letter from Mr Nutt enclosing the draft amended disclosure of 5 April 2015 did note that the Party had made its best efforts to properly describe the name of the donors, their ABN and addresses at the time the donations were given. We have made the amendments you requested but cannot verify the correctness for all of the changes you have requested.

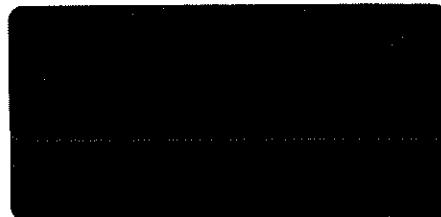
In relation to the donations to the FEF, Mr Walton's declaration to this disclosure is given by him in accordance with the opinion of the Electoral Commission as expressed by the Hon Keith Mason AC QC in his letter dated 23 March 2016 and the accompanying Statement of Facts. Notwithstanding that opinion, it is noted that the legal position in relation to the donations made to the FEF is very complex and by no means certain.

Finally, and in relation to your letter of 11 April 2016, we respectfully request that the Commission convene an extraordinary meeting to consider provision of the Balance Funding (as defined in our letter of 23 March 2016) due in respect of the Elections Campaign Fund for the 2015 State Election, and the Administration Fund. This funding is required urgently to allow the Party to continue its operations in NSW.

Yours sincerely,



Chris Stone
State Director



Bruce Walton
Party Agent



Amended Disclosure for a Political Party



The information on this form is collected under the *Election Funding, Expenditure and Disclosures Act 1981* and will be made publicly available. Please refer to the relevant funding and disclosure guide available on the New South Wales Electoral Commission's (NSWEC) website (www.elections.nsw.gov.au) when completing this form.

Disclosure Details

NAME OF POLITICAL PARTY ON WHOSE BEHALF THIS AMENDED DISCLOSURE IS MADE:

Liberal Party of Australia, NSW Division

RELEVANT DISCLOSURE PERIOD:

Declaration – this must be completed by the Party Agent

I, Bruce Walton

INSERT PARTY AGENT NAME

state incorrectly declared in the original disclosure of political donations and electoral expenditure lodged with the NSWEC and that the donations and or expenditure for the above named political party during the disclosure period.

SIGNATURE OF PARTY AGENT

27th APRIL 2016

DATE

Certificate of a Registered Company Auditor (to be completed by the Auditor)

I, Refer attached reports certify that

AUDITOR FULL NAME

- a) I was given full and free access at all reasonable times to all accounts and documents of the agent responsible for lodging the declaration and of the party relating directly or indirectly to any matter required to be disclosed under Part 6 of the *Election Funding, Expenditure and Disclosures Act 1981*;
- b) I duly examined such of those accounts and documents as I considered material for the purposes of giving this certificate;
- c) I received all information and explanations that I asked with respect to any matter required to be set out in the declaration, subject to the qualifications (if any) specified in this certificate; and
- d) I have no reason to think that any statement in the declaration is not correct.

AUDITOR'S SIGNATURE

REGISTRATION NO.

DATE

OFFICE USE ONLY

RECEIVED BY

FILE NO

FADMS DISCLOSURE RECORD NO

Amended Disclosure for a Political Party

Political Party Name: Liberal Party of Australia, NSW Division

Amendments

Amendment Legend: Editing the details of an item = **E** Omit an item = **O** Add a new item = **A** Substitute an item = **S**
 If the amendment is to edit an item listed in the original disclosure indicate using 'E'
 If the amendment is to omit an item from your original disclosure indicate using 'O'
 If the amendment is to add an item to your original disclosure indicate using 'A'
 If the amendment is to substitute an item to your original disclosure indicate using 'S'

Part A. Small Political Donations Received General Not received at a Fundraising Function or Venture

Total No. of Small Donations Received for State Campaign Purposes	Total Value of Small Donations Received for State Campaign Purposes	Legend E, O, A or S
8	\$ 4,050.00	A
Total No. of Small Donations Received for Local Government Campaign Purposes	Total Value of Small Donations Received for Local Government Campaign Purposes	Legend E, O, A or S
	\$	
Total No. of Small Donations Received for Party Administration Purposes	Total Value of Small Donations Received for Party Administration Purposes	Legend E, O, A or S
	\$	
Total No. of All Donations Above	Total Value of All Donations Above	Legend E, O, A or S
8	\$ 4,050.00	

Part B. Reportable Political Donations Received General Not received at a Fundraising Function or Venture

If more space is required please attach an additional list in the same format

Date Donation was made	Name of Individual eg. Surname, Given Name or Registered Business Name of Entity	Enrolled Address of Individual or Registered Official Address of Entity	Registered Business Number ie ABN/ACN (Entity Only)	Amount or Value of Donation (\$)	Receipt No	Gift Type (Monetary/ Non-Monetary)	Purpose (State/LG/ Admin)	Legend E, O, A or S
	Refer attached list			\$ 2,164.00				
TOTAL				\$ 2,164.00				

Amended Disclosure for a Political Party

Political Party Name: **Liberal Party of Australia, NSW Division**

Part C. Fundraising Functions or Ventures

C1. Event details of fundraising function(s) or venture(s)

If more space is required please attach an additional list in the same format

Date(s) of Function(s) or Venture(s)	Description or Name of Function(s) or Venture(s)	Proceeds (\$)	Net (N) or Gross (G)	Purpose (State/LG/Admin)	Legend E, O, A or S
TOTAL		\$ 0.00			

C2. Small Political Donations received at fundraising function(s) or venture(s)

If more space is required please attach an additional list in the same format

Date(s) of Function(s) or Venture(s)	Description or Name of Function(s) or Venture(s)	Total Number of Small Donations	Total Value of Small Donations (\$)	Purpose (State/LG/Admin)	Legend E, O, A or S
TOTAL		0	\$ 0.00		

C3. Reportable Political Donations received at fundraising function(s) or venture(s)

If more space is required please attach an additional list in the same format

Date Donation was made	Name of Individual eg. Surname, Given Name or Registered Business Name of Entity	Enrolled Address of Individual or Registered Official Address of Entity	Registered Business Number ie ABN/ACN (Entity Only)	Amount or Value of Donation (\$)	Receipt No	Gift Type (Monetary/ Non-Monetary)	Description or Name of Function or Venture(s)	Legend E, O, A or S
TOTAL				\$ 0.00				

Amended Disclosure for a Political Party

Political Party Name: Liberal Party of Australia, NSW Division

F2. Production and Distribution of Election Material

If more space is required please attach an additional list in the same format

Expenditure Incurred from Date	Expenditure Incurred to Date	Name of Supplier	Product or Service Provided	Amount Incl GST (\$)	Invoice No.	Legend E, O, A or S
TOTAL				\$ 0.00		

F3. Internet, Telecommunications, Stationery and Postage

If more space is required please attach an additional list in the same format

Expenditure Incurred from Date	Expenditure Incurred to Date	Name of Supplier	Product or Service Provided	Amount Incl GST (\$)	Invoice No.	Legend E, O, A or S
TOTAL				\$ 0.00		

F4. Employing Staff engaged in election campaigns

If more space is required please attach an additional list in the same format

Expenditure Incurred from Date	Expenditure Incurred to Date	Category of Staff	Service Provided	Amount Incl GST (\$)	Legend E, O, A or S
TOTAL				\$ 0.00	

Amended Disclosure for a Political Party

Political Party Name: Liberal Party of Australia, NSW Division

F5. Office Accommodation for Staff and Candidates

If more space is required please attach an additional list in the same format

Expenditure Incurred from Date	Expenditure Incurred to Date	Name of Supplier	Product or Service Provided	Amount Incl GST (\$)	Invoice No.	Legend E, O, A or S
TOTAL				\$ 0.00		

Part G. Electoral Expenditure – Other

Type of Expenditure	Amount (Incl GST) (\$)	Legend E, O, A or S
Total expenditure on travel and travel accommodation		
Total expenditure on research associated with election campaigns		
Total expenditure incurred in raising funds for an election	\$ 6,214.00	A
Total expenditure incurred in auditing campaign accounts		
Total other electoral expenditure		
TOTAL		\$ 6,214.00

Amendment Legend: Editing the details of an item = E Omit an item = O Add a new item = A Substitute an item = S

Amended Disclosure for a Political Party

Political Party Name:

Part H. Small Political Donations made by the Party

Total number of small donations made	Total Value	Legend E, O, A or S
	\$	

Part I. Reportable Political Donations made by the Party

Date Donation was made	Name of NSW Candidate, Group of Candidates, Local Government Councillor, Member of Parliament, Political Party or Third-Party Campaigner (eg Surname, Given Name or Entity Name)	Enrolled Address of Individual or Registered Official Address of Party/ Third-Party Campaigner	Business Number eg. ABN/ACN	Amount or Value of Donations (\$)	Gift Type (Monetary or Non-Monetary)	Legend E, O, A or S
TOTAL				\$ 0.00		

If more space is required please attach an additional list in the same format

Part B. Reportable Political Donations Received General

Date	Donor's name	Address	ABN	Amount	Receipt no.	Gift type	Purpose	Legend
16/08/2010	The Free Enterprise Foundation	GPO Box 292, Canberra ACT 2601	18 121 326 981	(94,000.00)	101958	Monetary	State	Omit
06/12/2010	The Free Enterprise Foundation	GPO Box 292, Canberra ACT 2601	18 121 326 981	(64,000.00)	102121	Monetary	State	Omit
22/12/2010	The Free Enterprise Foundation	GPO Box 292, Canberra ACT 2601	18 121 326 981	(171,000.00)	102115	Monetary	State	Omit
23/12/2010	The Free Enterprise Foundation	GPO Box 292, Canberra ACT 2601	18 121 326 981	(358,000.00)	102119	Monetary	State	Omit
24/12/2010	The Free Enterprise Foundation	GPO Box 292, Canberra ACT 2601	18 121 326 981	(100,000.00)	102120	Monetary	State	Omit
16/12/2010	Adaptive Pty Ltd	65 Atherton Crescent, Wagga Wagga NSW 2650	34 113 317 276	500.00		Monetary	State	Add
16/12/2010	Adaptive Pty Ltd	65 Atherton Crescent, Wagga Wagga NSW 2650	34 113 317 276	800.00		Monetary	State	Add
16/12/2010	Aline Pumps Sales & Service	17 Burns Road, Heathcote NSW 2233	12 684 232 254	1,490.00		Monetary	State	Add
16/12/2010	Allsteel Products Pty Ltd	76 North Crescent, Wyoming NSW 2250	73 133 186 320	1,499.00		Monetary	State	Add
05/11/2010	ANZ Real Estate Consultants Pty Ltd	Suite 206, 10 Norwest Central Century Circuit, Baulkham Hills NSW 2153	90 137 166 806	5,000.00		Monetary	State	Add
18/11/2010	Austral Bricks (NSW) Pty Ltd	738-780 Wallgrove Road, Horsley Park NSW 2175	60 125 934 849	5,000.00		Monetary	State	Add
05/11/2010	Belside Pty Ltd	241-245 Pennant Hills Road, Carlingford NSW 2142	23 003 053 978	10,000.00		Monetary	State	Add
06/12/2010	Big Country Developments Pty Ltd	7 Dickson Avenue, Artarmon NSW 2064	24 000 235 923	9,900.00		Monetary	State	Add
16/12/2010	Boardwalk Resources Pty Ltd	C8 The Boardwalk, 1 Honeysuckle Drive, Newcastle NSW 2300	89 130 433 617	53,000.00		Monetary	State	Add
29/07/2010	Brickworks Limited	738-780 Wallgrove Road, Horsley Park NSW 2175	17 000 028 526	50,000.00		Monetary	Federal	Add
20/12/2010	Brickworks Limited	738-780 Wallgrove Road, Horsley Park NSW 2175	17 000 028 526	125,000.00		Monetary	State	Add
19/08/2010	Crown International Holdings	68 Alfred Street, Milsons Point NSW 2061	68 066 409 541	10,000.00		Monetary	Federal	Add
05/11/2010	D P Smith (Holdings) Pty Ltd	32-34 Toowoyn Bay Road, Long Jetty NSW 2261	13 001 530 696	10,000.00		Monetary	State	Add
17/12/2010	Davis, Athol	10 Linford Place, Beaumont Hills 2155		1,450.00		Monetary	State	Add
16/12/2010	Decortech & Plytech Pty Ltd	6 Millennium Court, Silverwater NSW 2128	19 077 875 346	1,490.00		Monetary	State	Add
13/12/2010	Dribonn Pty Ltd	405 Victoria Street, Wetherill Park NSW 2164	34 068 436 840	1,499.00		Monetary	State	Add
17/12/2010	Elmslea Land Developments Pty Ltd	City Link Plaza, Suite 12, 30 Morrisset Street, Queanbeyan NSW 2620	74 066 447 265	20,000.00		Monetary	State	Add
13/12/2010	Epivision Pty Ltd	405 Victoria Street, Wetherill Park NSW 2164	80 003 287 072	1,499.00		Monetary	State	Add
16/12/2010	Firth, Daniel & Maria	10 Bower Parade, Singleton Heights NSW 2230		1,490.00		Monetary	State	Add
17/12/2010	Fleetwood Urban Pty Ltd	71-73 Melbourne Road, Riverstone NSW 2765	40 000 789 748	1,499.00		Monetary	State	Add
16/12/2010	Fooks Pty Ltd trading as Furnware Trading Co.	18 Burns Road, Heathcote NSW 2233	70 130 565 141	1,499.00		Monetary	State	Add
16/12/2010	Fooks Pty Ltd trading as Furnware Trading Co.	18 Burns Road, Heathcote NSW 2233	70 130 565 141	1,499.00		Monetary	State	Add
16/12/2010	Fooks Pty Ltd trading as Furnware Trading Co.	18 Burns Road, Heathcote NSW 2233	70 130 565 141	1,499.00		Monetary	State	Add
16/12/2010	Fooks, Edwin	31 Collinson Street, Tenambit NSW 2323		1,000.00		Monetary	State	Add
17/12/2010	Fooks, Stuart	31 Glenrowan Avenue, Kellyville NSW 2155		1,499.00		Monetary	State	Add
16/12/2010	Gooden, Benjamin trading as Woodchuch Landscape Systems	12 Eggleton Close, Singleton Heights NSW 2330	79 763 264 627	1,499.00		Monetary	State	Add
14/12/2010	Holland Fine Art & Cars Pty Ltd	16-32 McLachlan Avenue, Rushcutters Bay NSW 2010	38 002 457 454	10,000.00		Monetary	State	Add
16/12/2010	Kennard, Daniel	6 Conifer Close, Kariang NSW 2250		1,500.00		Monetary	State	Add
16/12/2010	Kennard, Jerry	144 MacDonalds Road, Lisarow NSW 2250		1,500.00		Monetary	State	Add
16/12/2010	Kennard, Neil	148 MacDonalds Road, Lisarow NSW 2250		750.00		Monetary	State	Add
16/12/2010	Kennard, Priscilla	148 MacDonalds Road, Lisarow NSW 2250		750.00		Monetary	State	Add
16/12/2010	Kennard, Richard	56 Sunset Street, Wyoming NSW 2250		1,500.00		Monetary	State	Add
13/12/2010	Kirkstall Pty Ltd	405 Victoria Street, Wetherill Park NSW 2164	23 003 513 120	1,499.00		Monetary	State	Add
14/12/2010	Levick, Paul on behalf of Jilliby Stage 2 Land Owners Action Group	97 Panonia Road, Wyong NSW 2259		4,000.00		Monetary	State	Add

EF704 - Amended Disclosure for a Political Party - Financial year ended 30 June 2011

The Liberal Party of Australia (NSW Division)

Date	Donor's name	Address	ABN	Amount	Receipt no.	Gift type	Purpose	Legend
08/09/2010	Lin, Mingchi	81 Pymble Avenue, Pymble NSW 2073		5,000.00		Monetary	Federal	Add
13/12/2010	Lorset Pty Ltd	405 Victoria Street, Wetherill Park NSW 2164	79 054 076 514	1,499.00		Monetary	State	Add
28/07/2010	Meriton Apartments Pty Ltd	Level 11, 528 Kent Street, Sydney NSW 2000	75 000 644 888	25,000.00		Monetary	Federal	Add
16/12/2010	Monks, James	76 North Crescent, Wyoming NSW 2250		1,490.00		Monetary	State	Add
16/12/2010	Monks, Peter & Gwennyth	91 Beaumont Avenue, Wyoming NSW 2250		1,000.00		Monetary	State	Add
05/11/2010	Naletran Pty Ltd	241-245 Pennant Hills Road, Carlingford NSW 2142	84 059 753 918	3,000.00		Monetary	State	Add
17/12/2010	Petra Civil Pty Ltd	13-17 Tennant Street, Fyshwick ACT 2609	92 090 448 445	2,000.00		Monetary	State	Add
05/11/2010	PJC Holdings Pty Ltd	181-186 Parramatta Road, Granville NSW 2142	12 132 946 377	2,000.00		Monetary	State	Add
16/12/2010	Pridham, John	97 Meadow Street, Wagga Wagga NSW 2650		1,500.00		Monetary	State	Add
17/12/2010	Printban Pty Ltd	Suite 3.01, 4 Ilya Avenue, Erina NSW 2251	94 052 315 689	10,000.00		Monetary	State	Add
16/12/2010	Pugh, Arthur & Carolyn as trustee for The Advance Precision Trust	1 Juno Parade, Woonona NSW 2517		1,499.00		Monetary	State	Add
05/11/2010	Renlyn Bell Investments Pty Ltd	35 Elabana Crescent, Castle Hill NSW 2154	107 411 763	9,900.00		Monetary	State	Add
17/12/2010	Roseham Pty Ltd as trustee for The Heaney Family Trust	53 Holbeche Road, Arndell Park NSW 2148	59 114 858 089	1,499.00		Monetary	State	Add
13/12/2010	Rumerone Pty Ltd	405 Victoria Street, Wetherill Park NSW 2164	86 003 153 811	1,499.00		Monetary	State	Add
13/12/2010	Seasonsrage Pty Ltd	405 Victoria Street, Wetherill Park NSW 2164	76 629 812 632	1,499.00		Monetary	State	Add
16/12/2010	SFH Pty Ltd as trustee for the Stead Family Trust trading as Grainline	1 Harthog Place, Wagga Wagga NSW 2650	27 936 613 487	375.00		Monetary	State	Add
16/12/2010	SFH Pty Ltd as trustee for the Stead Family Trust trading as Grainline	1 Harthog Place, Wagga Wagga NSW 2650	27 936 613 487	500.00		Monetary	State	Add
16/12/2010	SFH Pty Ltd as trustee for the Stead Family Trust trading as Grainline	1 Harthog Place, Wagga Wagga NSW 2650	27 936 613 487	600.00		Monetary	State	Add
06/12/2010	Shepherd, Anthony	Silent elector		1,500.00		Monetary	State	Add
17/12/2010	Shore, Chris	41 Guardian Avenue, Beaumont Hills NSW 2155		1,499.00		Monetary	State	Add
13/12/2010	Smeaton Grange Pty Ltd	405 Victoria Street, Wetherill Park NSW 2164	64 100 748 641	1,499.00		Monetary	State	Add
16/12/2010	Sunbeat Pty Ltd	Suite 3, 10 Wharf Crescent, Pyrmont NSW 2009	73 106 506 156	10,000.00		Monetary	State	Add
13/12/2010	Tesrol Bridge St Pty Ltd	405 Victoria Street, Wetherill Park NSW 2164	99 103 762 803	1,499.00		Monetary	State	Add
13/12/2010	Tesrol Group Projects Pty Ltd	405 Victoria Street, Wetherill Park NSW 2164	28 100 645 172	1,499.00		Monetary	State	Add
13/12/2010	Tesrol Pty Ltd	405 Victoria Street, Wetherill Park NSW 2164	62 179 820 552	1,499.00		Monetary	State	Add
09/12/2010	Threshold Developments Pty Ltd	Suite 5, 34-36 Pacific Highway, Wyong NSW 2259	096 211 933	2,000.00		Monetary	State	Add
20/12/2010	Town & Country Lands Pty Ltd	Level 16, 1 Market Street, Sydney NSW 2000	55 000 017 783	10,000.00		Monetary	State	Add
16/12/2010	Transnational Storage Pty Ltd	3-7 Bryant Drive, Tuggerah NSW 2259	27 089 006 753	12,500.00		Monetary	State	Add
16/12/2010	Truswell, Kenneth trading as K-Set Engineering	79 Thompson Street, East Maitland NSW 2323	69 736 031 934	1,200.00		Monetary	State	Add
19/08/2010	Vaste Developments Pty Ltd	Suite 6, 320 Camden Valley Way, Narellan NSW 2567	30 054 461 433	3,000.00		Monetary	Federal	Add
09/12/2010	Waddell, John on behalf of Precinct 8C Wadalba Lobby Group	138 Murray Farm Road, Beecroft NSW 2119		4,000.00		Monetary	State	Add
22/12/2010	Walker Group Holdings Pty Ltd	Level 21 Governor Macquarie Tower, 1 Farrer Place Sydney NSW 2000	81 001 215 069	100,000.00		Monetary	State	Add
20/12/2010	Washington H Soul Pattinson and Company Ltd	Level 1, 160 Pitt Street Mall, Sydney NSW 2000	49 000 002 728	50,000.00		Monetary	State	Add
16/12/2010	Weltson Pty Ltd	Level 2, 3 Horwood Place, Parramatta NSW 2150	62 090 687 719	5,000.00		Monetary	State	Add
21/12/2010	Westfield Corporation Limited	Level 29, 85 Castlereagh Street, Sydney NSW 2000	12 166 995 197	150,000.00		Monetary	State	Add
17/12/2010	Windsor Farm Equipment Company	429 Windsor Road, Vineyard NSW 2765	12 218 606 081	1,499.00		Monetary	State	Add
05/08/2010	Xiang Rong (Australia) Investment Group	Suite 1907, 109 Pitt Street, Sydney NSW 2000	84 101 611 732	20,000.00		Monetary	Federal	Add
TOTAL				2,164.00				



Independent audit report to the members of The Liberal Party of Australia, New South Wales Division

We have audited the accompanying 'EF704 Amended Disclosure for a Political Party' of The Liberal Party of Australia, New South Wales Division ("the Party") dated 5 April 2016, for the period 1 July 2010 to 30 June 2011 ("the Amended Disclosure"). The Amended Disclosure has been prepared by Mr Bruce Walton, agent for The Liberal Party of Australia, New South Wales Division ("the Party Agent"), as permitted under Section 88(3) and 96M(1) of the *Election Funding, Expenditure and Disclosures Act of 1981 (NSW) No. 78* ("the Act").

Party Agent's responsibility for the Amended Disclosure

The Party Agent is responsible for the preparation and presentation of the Amended Disclosure in accordance with Section 88 through 95 and 96M(1) of the Act, pursuant to the definitions contained in Section 84 through 87. The Party Agent is responsible for determining the categorisation of political donations and electoral expenditure in accordance with the reportable categories defined in Section 92 through 93.

The Amended Disclosure has been prepared for the purposes of the Party Agent responding to correspondence from the New South Wales Electoral Commission ("the NSWEC"), on 23 March 2016. This correspondence outlines the view of the NSWEC that certain amounts were not reported in the previous Amendment to the Declaration of the EF679 Disclosure of political Donations and Electoral Expenditure for a Political Party, dated 3 March 2015 ("Previous Reporting"). Those amounts were recorded in the Previous Reporting as received from The Free Enterprise Foundation. It is the conclusion of the NSWEC the amounts paid by donors to The Free Enterprise Foundation are reportable political donations to the Party and their details are to be individually and separately disclosed. The Party Agent has also advised, based on verbal instructions received from the NSWEC, that the presentation of the Amended Disclosure is to include a reconciliation of the amounts paid to The Free Enterprise Foundation by the relevant donors, to the amounts paid by The Free Enterprise Foundation to the Party. Additionally, amounts paid by The Free Enterprise Foundation to the Party should not be presented in the Amended Disclosure as reportable political donations.

The Amended Disclosure has been prepared as a supplement to the Previous Reporting, specific to the request of the NSWEC and is to be read in conjunction with the Previous Reporting to fulfil the Party obligations under Section 84 through 87 of the Act.

The Party Agents' responsibility also includes such internal control as the Party Agent determines necessary to enable the preparation and presentation of an Amended Disclosure that is free from material misstatement whether due to fraud or error.

Auditor's responsibility

Our responsibility is to express an opinion on the Amended Disclosure based on our audit. We conducted our audit in accordance with Australian Auditing Standard 805, pursuant to the audit certificate obligations of Section 96K(1) and 96M(2) of the Act. These Auditing Standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the Amended Disclosure is free from material misstatement. We have also had regard to the determinations made by the NSWEC for the preparation and presentation of the Amended Disclosure, in particular the inclusion of certain amounts paid to and from The Free Enterprise Foundation. Our audit has been completed on this basis.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the Amended Disclosure. The procedures selected depend on the auditor's



judgement, including the assessment of the risks of material misstatement of the financial report, whether due to fraud or error.

In making risk assessments, the auditor considers internal control relevant to the Party Agent's preparation and presentation of the Amended Disclosure in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Party Agent's internal control. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of accounting estimates made by the Party Agent, as well as evaluating the overall presentation of the Amended Disclosure. These procedures have been undertaken to form an opinion whether, in all material respects, the Amended Disclosure is presented in accordance with Section 88 through 95 and 96M(1) of the Act, so as to present a view which is consistent with our understanding of the Party's political donations and electoral expenditure.

In respect of amounts paid by donors to The Free Enterprise Foundation, we selected procedures relevant to the examination of the underlying bank statements, deposit books, and other relevant financial records of The Free Enterprise Foundation.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Independence

In conducting our audit, we have complied with the independence requirements of the Accounting Professional and Ethical Standards Board.

Basis for Qualified Opinion

It is not always practicable or possible for the Party Agent to establish effective controls over the completeness of the collection of political donations prior to entry into its financial records. Accordingly, the Party Agent has been unable to establish effective controls over the completeness of information obtained from Party Units of The Liberal Party of Australia, New South Wales Division, and The Free Enterprise Foundation, for the aggregation of political donations. As the evidence available to us regarding the completeness of political donations was limited, our audit procedures with respect to political donations had to be restricted to the amounts recorded in the financial records. Accordingly, we are unable to obtain sufficient evidence that the political donations disclosed within the Amended Disclosure are complete.

The Party Agent has been unable to establish effective controls and procedures over the completeness of electoral expenditure prior to entry into its financial records. Accordingly, we have been unable to obtain sufficient evidence that the electoral expenditure disclosed within the Amended Disclosure is complete.

Political donations received and electoral expenditure incurred by Party Units of the Party, are included within the Amended Disclosure, where the Party Units to The Party have registered political donations and electoral expenditure with The Party Agent. We have been unable to obtain sufficient evidence over the existence, completeness and accuracy of these political donations and electoral expenditure amounts and related disclosure information.

Had we been able to obtain the information we require, matters might have come to our attention indicating that adjustments might be necessary to the Amended Disclosure.

Qualified Auditor's opinion

Except for the possible effects or adjustments to the Amended Disclosure that we might have become aware of had it not been for the limitations on our audit procedures described in the preceding Basis for Qualified Opinion paragraph, in our opinion, the EF704 Amended



Disclosure for a Political Party presents, in all material respects, the political donations and electoral expenditures of The Liberal Party of Australia, New South Wales Division for the period 1 July 2010 to 30 June 2011 in accordance with the disclosure requirements of Part 6 of the *Election Funding, Expenditure and Disclosures Act of 1981 (NSW) No. 78*, as determined by the NSWEC in correspondence received on 23 March 2016.

In carrying out our audit procedures, we note the following matters:

- 1 We were given full and free access at all reasonable times to all accounts and documents of the Party Agent responsible for lodging the Amended Disclosure, The Liberal Party of Australia, New South Wales Division, and The Free Enterprise Foundation, relating directly or indirectly to any matter required to be disclosure under Part 6 of the *Election Funding, Expenditure and Disclosures Act 1981 (NSW) No.78*;
- 2 We duly examined such of those accounts and documents as we considered material for the purposes of giving this report;
- 3 We received all information and explanations that we asked for with respect to any matter required to be set out in the Amended Disclosure, subject to the qualifications outlined in the Basis for Qualified Opinion paragraph; and
- 4 Except for the possible effects or adjustments to the Amended Disclosure that we might have become aware of had it not been for the limitations on our audit procedures described in the preceding Basis for Qualified Opinion paragraph, we have no reason to think that any statement in the declaration is not correct.

Associated Reporting

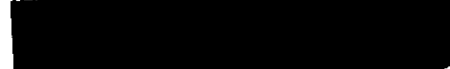
Our report is to be read in conjunction with our Independent audit report to the members of The Liberal Party of Australia, New South Wales Division, on the Previous Reporting, signed on 3 March 2015.

Restrictions on Distribution

Our report is intended solely for the Liberal Party of Australia, New South Wales Division, and the New South Wales Electoral Commission and should not be distributed to or used by parties other than the Party Agent and the New South Wales Electoral Commission. We disclaim any assumption of responsibility for any reliance on this report, or on the Amended Disclosure to which it relates, to any person other than the Party Agent of The Liberal Party of Australia, New South Wales Division and the New South Wales Electoral Commission or for any other purpose than that for which it was prepared.



KPMG



John Wiggiesworth
Partner

Auditor registration number: 203423

Sydney

22 April 2016



Report of factual findings to the members of The Liberal Party of Australia, New South Wales Division

We have performed the procedures agreed with you, The Liberal Party of Australia, New South Wales Division ("the Party"), and the Electoral Commission NSW to report factual findings for the purpose of assisting you and the New South Wales Electoral Commission ("the NSWEC"), in combination with other information obtained by you, to attest that the donations listed in Appendix 1 were received, banked and used exclusively for federal campaign purposes during the reporting period from 1 July 2010 through 30 June 2011. The procedures are detailed in the terms of engagement dated 21 April 2016 and described below with respect to the appropriate use of political donations to which the agreed-upon procedures have been applied.

Party Agent's and NSWEC's responsibility for the procedures agreed

The Party Agent and the NSWEC are responsible for the adequacy or otherwise of the procedures agreed to be performed by us, agreeing that the procedures meet their needs. The Party Agent and the NSWEC are responsible for determining whether the factual findings provided by us, in combination with any other information obtained, provide a reasonable basis for any conclusions which they wish to draw on the subject matter.

Our responsibility

Our responsibility is to report factual findings obtained from conducting the procedures agreed. We conducted the engagement in accordance with Standard on Related Services ASRS 4400 *Agreed-Upon Procedures Engagements to Report Factual Findings*. We have complied with ethical requirements equivalent to those applicable to Other Assurance Engagements.

Because the agreed upon procedures do not constitute either a reasonable or limited assurance engagement in accordance with Auditing and Assurance standards issued by the Australian Auditing and Assurance Standards Board (AUASB), we do not express any conclusion and provide no assurance on the appropriate use of political donations. Had we performed additional procedures or had we performed an audit or review in accordance with AUASB Standards, other matters might have come to our attention that would have been reported to you.

Factual findings

The procedures were performed solely to assist you in determining the appropriate use of political donations during the reporting period from 1 July 2010 through 30 June 2011. The procedures performed and the factual findings are as follows:

Procedures performed	Factual findings	Errors or exceptions identified
Confirm donations were received.	All "Posting Amounts" listed in Appendix 1 were recorded as received by the Liberal Party of Australia, New South Wales Division, from the Free Enterprise Foundation within the General Ledger.	None identified.



Confirm donations were banked.	The "Bank Deposit Amounts" listed in Appendix 1 were agreed to transactions deposited per bank statements of the Liberal Party of Australia, New South Wales Division on the date listed as the "Bank Deposit Date".	None identified.
Confirm donations were used exclusively for federal campaign purposes.	The "Posting Amounts" listed in Appendix 1 were recorded to the federal campaign account maintained by the Liberal Party of Australia, New South Wales Division listed as the "General Ledger Account" of the date listed as the "Posting Date".	None identified.

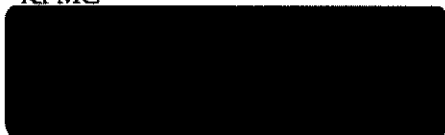
Distribution and use of report

This report is intended solely for the use of the Liberal Party of Australia, New South Wales Division, and the New South Wales Electoral Commission for the purpose set out above. As the intended users of our report, it is for you to assess both the procedures and our factual findings to determine whether they provide, in combination with any other information you have obtained, a reasonable basis for any conclusions which you wish to draw on the subject matter.

As required by ASRS 4400, use of this report is restricted to the Liberal Party of Australia, New South Wales Division, and the New South Wales Electoral Commission, the intended users, who have agreed the procedures to be performed with us, since others, unaware of the reasons for the procedures, may misinterpret the results. This report should not be distributed to parties other than the intended users. Accordingly, we expressly disclaim and do not accept any responsibility or liability to any party other than the Liberal Party of Australia, New South Wales Division, and the New South Wales Electoral Commission for any consequence of distribution of or reliance on our report for any purpose.



KPMG



John Wigglesworth

Partner

Auditor registration number: 203423

Sydney

22 April 2016



Appendix 1 – Political Donations received, banked and used exclusively for federal campaign purposes during the reporting period from 1 July 2010 through 30 June 2011

General Ledger Account	Posting Date	Posting Amounts	Bank Deposit Date	Bank Deposit Amounts
#1715 – Revenue Federal Campaign Donations	16 August 2010	\$94,000	16 August 2010	\$94,000
#1710 – Revenue Federal Campaign Accrued Income	12 August 2010	\$5,000	23 December 2010	\$64,000
#8400 – Fees in Advance	19 August 2010	\$3,000		
#8400 – Fees in Advance	19 August 2010	\$10,000		

LM2015/436

Mr B Walton
Party Agent
Liberal Party of Australia (NSW Division)
Locked Bag 2
KINGS CROSS NSW 1340

11 April 2016

Dear Mr Walton

Liberal Party of Australia (NSW Division) – draft amended disclosure – review comments

The audit function of the NSW Electoral Commission has reviewed the draft amended disclosure declaration your party sent to the NSW Electoral Commissioner on 5 April 2016. While this draft declaration has not been validly lodged in accordance with section 96K of the *Election Funding, Expenditure and Disclosures Act 1981* (the Act), the following comments may be of assistance in the preparation of your amendment.

1. Donations now noted as received for federal purposes which were received after the federal election

In the initial disclosure declaration, your party reported having received a donation from the Free Enterprise Foundation (FEF) on 6 December 2010 in the amount of \$64,000 used for State Campaign purposes. Your draft amendment seems to indicate that \$18,000 of this donation was in fact used for federal purposes. This sum can be traced back to the following three original donations:

Donor	Amount	Received by FEF	Received by the party
Crown Internal Holdings	\$10,000	19 August 2010	6 December 2010
Vaste Developments P/L	\$3,000	19 August 2010	6 December 2010
Lin Mingchi	\$5,000	8 September 2010	6 December 2010

Considering that these funds were deposited in your party's bank account 3 ½ months after the federal election was held, Audit intends on requesting more evidence to support the source and application of the funds.

We also note that the \$94,000 donation from the FEF dated 16 August 2010 and used for federal purposes has not been amended to disclose the original donors.

2. Potentially undisclosed Other Electoral Expenditures

According to the NSW ICAC Exhibit (S5 p.1264), there was a suggestion that the balance of \$6,214 be retained by the FEF in recognition of the donations given. Should your party consider this a fundraising expenditure, it should be disclosed as Other Electoral Expenditure (part G of the disclosure form) if not already included in the original disclosure declaration or subsequent amendments.

3. Donation received from Vincent Heufel (\$100,000)

In its original disclosure declaration, your party disclosed a donation of \$100,000 received from Vincent Heufel on 30 November 2010. In light of the following ICAC testimony, Audit suspects Mr Heufel not to be the true donor of this \$100,000:

- Mr Baumann's testimony, Friday 12 September 2014 at 10.30am, pp. 7611T-7620T;
- Mr Heufel's testimony, Friday 12 September 2014 at 10.30am, pp. 7637T-7642T.

4. Donation received from Harmony Hill Pty Ltd (\$10,000)

In its amendment lodged with the NSW Electoral Commission on 15 July 2015, your party has disclosed a donation received on 15 November 2010 by Harmony Hill Pty Ltd in the amount of \$10,000. In light of the following ICAC testimony and exhibit, Audit suspects Harmony Hill Pty Ltd not to be the true donor of this \$10,000:

- Mr Cornwell's testimony, Thursday 7 August 2015 at 10.39am, pp.4857T-4862T.
- Mr Beaven's testimony, Thursday 7 August 2014 at 1.48pm, pp. 4938T-4941T
- Exhibit Z3, pp. 2-3.

5. Minor errors/inconsistencies in draft amendments

The following ABN, listed in the draft amendment, appear to be incorrect:

Date Donation was made	Name of the Donor	ABN	Amount	Correct ABN
6/12/2010	Big Country Developments Pty Ltd	24 000 235 953	9 900 00	24 000 235 923
13/12/2010	Lorset Pty Ltd	79 054 074 514	1 499 00	79 054 076 514
13/12/2010	Tesrol Pty Ltd	61 179 820 552	1 499 00	62 179 820 552

The following business donor names appear to be inconsistent with the names of the businesses at the time of the donations:

Date Donation was made	Name of the Donor	ABN	Amount	Remarks
16/12/2010	Interspan Industries Pty Ltd	19 077 875 346	1 496 00	ABN Search shows that the Entity Name Interspan Industries Pty Ltd is from 29/5/2000 to 20/10/2004 Decoratech & Pty, Inc Pty is from 20/10/2004 to current
16/12/2010	Sunbeat Bissap Pty Ltd	73 106 506 156	10 000 00	ABN Search shows that the Entity Name Sunbeat Bissap Pty Ltd is from 01/05/2006 to 19/05/2007 Sunbeat Pty Ltd is from 19/05/2007 to current

The following individual donor addresses appear to be inconsistent with their addresses at the time of the donation:

Date Donation was made	Name of the Donor	Address	Amount	Address at the time the donation was made
16/12/2010	Honks James	118 MacDonald Road Lisarow NSW 2250	1 490 00	76 North Cres Wyoming 2250
16/12/2010	Fooks Edwin	32 Quiescent Close Louth Park NSW 2320	1 000 00	31 Collinson St Tenambit 2323

For these new donations disclosed, it is unclear whether the donor is the business/trust or the individual listed:

Date Donation was made	Name of the Donor	Address	Amount	Remarks
16/12/2010	Furn Arthur & Carolyn as trustee for The Advance Precision Trust	Juno Parade Woonona NSW 2517	1 499 00	A Purb electoral address 1 Juno Parade Woonona NSW 2517
5/11/2010	Smith Darch P, P P Smith Eric	14 Townson Bay Road Long Jetty NSW 2231	10 000 00	The address disclosed relates to the business address D Smith electoral address 17 Charlton St Townson Bay 2231

Please note that these comments are provided to help you in lodging the party's amended disclosure declaration. Audit will perform a full compliance audit once your amended disclosure declaration is validly lodged.

Sincerely yours,



Hugo Bergeron
Assistant Director Compliance

LM2015/436

Mr T Nutt
Liberal Party of Australia (NSW Division)
Locked Bag 2
KINGS CROSS NSW 1340

7 April 2016

Dear Mr Nutt

Liberal Party of Australia (NSW Division) – amended disclosure

I refer to your letter of 5 April 2016 enclosing an amended draft disclosure for the Liberal Party of Australia (NSW Division) (the Party). We note that the draft declaration of disclosures is not audited in accordance with section 96K of the *Election Funding, Expenditure and Disclosures Act 1981* (the Act) and it is your intention to submit an audited disclosure directly.

As discussed in our teleconference of 1 April 2016, a declaration of disclosure must be audited by a registered company auditor to be validly lodged and the Commission cannot further consider the Party's claim for funding until a valid declaration is lodged and the disclosures therein have been reviewed and audited by NSWEC staff. As advised, NSWEC staff will commence their review of the draft declaration in anticipation of receiving the completed declaration and audit certificate. We draw your attention to the audit certificate in the amended disclosure form with regard to giving an auditor full and free access to all accounts, information, financial records and supporting documentation relating directly or indirectly to matters required to be disclosed under Part 6 of the Act, so that they may verify the disclosure expeditiously.

Should the Party receive a qualified or modified audit opinion, we request that the Party provide a copy of the auditor's management letter or final correspondence from the auditor to the Party along with the audit opinion.

We note the reference in your letter dated 5 April 2016:

"As discussed, the declaration in relation to the disclosure is given by me in accordance with the opinion of the Electoral Commission as expressed by the Hon. Keith Mason AC QC in his letter dated 23 March 2016 and the accompanying Summary of Facts. Notwithstanding that opinion, it is noted that the legal position in relation to donations made to FEF is very complex and by no means certain."

For abundant caution, we reiterate our instruction of 1 April 2016 that all donations received by or on behalf of the Party during the relevant disclosure period that have not been disclosed, or for which disclosure was incomplete or incorrect, must be disclosed in accordance with the Act.



As per usual practice, NSWEC staff will correspond with the Party to ask further questions and discuss any issues raised during our review of the draft disclosure and later audited disclosure. Should our review and audit determine that the audited amended disclosure does not include all donations received by or on behalf of the Party during the relevant disclosure period, further disclosure will be required to satisfy the requirements of a requisite declaration.

The Commission will consider the amended audited disclosure as promptly as is reasonably practical following receipt. As you can appreciate, the Commission will not be in a position to make a decision with regards to the Party's claim for payment from the Election Campaigns Fund and Administration Fund, including any offset of unlawful donations, until an audited requisite declaration has been received and audited by NSWEC staff.

Finally, we note that Mr Bruce Walton was appointed Party Agent of the Party effective 4 April 2016. Mr Walton has been included in this correspondence as in his role as Party Agent, he is responsible for making disclosures under the Act. All future correspondence will be sent to Mr Walton as Party Agent.

Yours sincerely



Linda Franklin
Acting Electoral Commissioner
On behalf of the NSW Electoral Commission

CC: Mr Bruce Walton – Party Agent
Via email: bruce.walton@nsw.liberal.org.au

LIBERAL PARTY OF AUSTRALIA

NEW SOUTH WALES DIVISION

5 April 2016

The Acting NSW Electoral Commissioner
Electoral Commission NSW
Level 25, 201 Kent Street
SYDNEY NSW 2000

Dear Ms Franklin

Liberal Party of Australia (NSW Division) and Free Enterprise Foundation

I refer to our telephone discussions on 1 April 2016.

I enclose the Party's amended disclosure for the financial year ending 2015. As discussed, the declaration in relation to the disclosure is given by me in accordance with the opinion of the Electoral Commission as expressed by the Hon Keith Mason AC QC in his letter dated 23 March 2015 and the accompanying Summary of Facts. Notwithstanding that opinion, it is noted that the legal position in relation to donations made to FEF is very complex and by no means certain.

The Party is arranging for the disclosure to be audited as a matter of urgency, and I expect it will be completed within a week, if not sooner. I submit this amended disclosure subject to the audit in anticipation of the meeting of the Commission to be held on 6 April 2016.

Please note that in the case of some donors the Party has no primary documents by which it can check the names of the donors or their details. The information relating to the donors has been compiled as best as possible from secondary documents, with the addresses being those which appear to be applicable at the time.

For your ease of reference, I also enclose, as promised, a separate list of donors to the FEF, and monies received by the Party from the FEF in relation to the State election campaign. It is not clear that any of these donors are property developers. One cannot assume that the mere inclusion of the word "developments" or "developer" or "land" in the donor's name means that it is a property developer under the Election Funding and Disclosures Act 1981 (Act). Further, whilst on its face it could be put that the Party should concede that a company such as Walker Group Holdings is a property developer, I have been made aware that Walker Group sold most, if not all, of its property development business before the relevant financial year, and accordingly, may not fall within the definition.

For completeness, I also enclose a separate list of donations made to, and received from, the FEF in relation to the campaign for the federal election held in late September 2010.

Subject to completion of the audit, as the Party has now complied with the request that an amended disclosure be given (based on the opinion of the Electoral Commission given on 23 March 2016), I ask that the Commission release the funding due to the Party from the Elections Campaign Fund for the 2015 state election and the Administration Fund for the fourth quarter of 2015. The Party is content for you to retain from that funding the amount of \$680,214, being the donations received from the FEF, whilst the Commission determines, or we otherwise resolve, whether or not these donors are

LIBERAL PARTY OF AUSTRALIA

NEW SOUTH WALES DIVISION

property developers under the Act. The Party make this offer voluntarily in good faith and in the interests of working to a resolution of the issue

Yours sincerely,

Tony Nutt
Party Agent

List of donations sent to and payments received from the Free Enterprise Foundation and used for Federal Election Campaign purposes

Date	Details	Federal
28/07/10	Meriton Premier Apartments	\$ 25,000
29/07/10	Brickworks	\$ 50,000
5/08/10	Xiang Rong (Aust) Inv Group P/L	\$ 20,000
16/08/10	Free Enterprise Foundation	\$ (94,000)
19/08/10	Crown International Holdings	\$ 10,000
19/08/10	Vaste Developments P/L	\$ 3,000
8/09/10	Lin Mingchi	\$ 5,000
6/12/10	Free Enterprise Foundation	\$ (18,000)
	Total donations sent to the FEF	\$ 113,000
	Payment received from the FEF	\$ (112,000)
	Balance	\$ 1,000

List of donations sent to and payments received from the Free Enterprise Foundation and used for State Campaign purposes

Date	Details	State	Classification
5/11/10	ANZ Real Estate Consultants Pty Ltd	\$ 5,000	Part B - Reportable
5/11/10	Belside Pty Ltd	\$ 10,000	Part B - Reportable
5/11/10	E & B Pastoral Pty Ltd	\$ 500	Part A - Small
5/11/10	Naletran Pty Ltd	\$ 3,000	Part B - Reportable
5/11/10	PJC Holdings Pty Ltd	\$ 2,000	Part B - Reportable
5/11/10	Renlyn Bell Investments Pty Ltd	\$ 9,900	Part B - Reportable
5/11/10	Smith, Darcy P (D P Smith Enterprises)	\$ 10,000	Part B - Reportable
5/11/10	Walker Pearse Pty Ltd	\$ 500	Part A - Small
18/11/10	Austral Bricks (NSW) Pty Ltd	\$ 5,000	Part B - Reportable
18/11/10	Myall Coast Health	\$ 500	Part A - Small
6/12/10	Big Country Developments Pty Ltd	\$ 9,900	Part B - Reportable
6/12/10	Free Enterprise Foundation	\$ (46,000)	Part B - Reportable
6/12/10	Shepherd, Anthony	\$ 1,500	Part B - Reportable
9/12/10	Hapido Pty Ltd as trustee for Everitt & Everitt Executive Super	\$ 750	Part A - Small
9/12/10	Threshold Developments Pty Ltd	\$ 2,000	Part B - Reportable
9/12/10	TSM Projects Pty Ltd	\$ 750	Part A - Small
9/12/10	Waddell, John on behalf of Precinct 8C Wadalba Lobby Group	\$ 4,000	Part B - Reportable
13/12/10	Dribonn Pty Ltd	\$ 1,499	Part B - Reportable
13/12/10	Epivision Pty Ltd	\$ 1,499	Part B - Reportable
13/12/10	Kirkstall Pty Ltd	\$ 1,499	Part B - Reportable
13/12/10	Lorset Pty Ltd	\$ 1,499	Part B - Reportable
13/12/10	Rumerone Pty Ltd	\$ 1,499	Part B - Reportable
13/12/10	Seasonsrage Pty Ltd	\$ 1,499	Part B - Reportable
13/12/10	Smeaton Grange Pty Ltd	\$ 1,499	Part B - Reportable
13/12/10	Tesrol Bridge St Pty Ltd	\$ 1,499	Part B - Reportable
13/12/10	Tesrol Group Projects Pty Ltd	\$ 1,499	Part B - Reportable
13/12/10	Tesrol Pty Ltd	\$ 1,499	Part B - Reportable
14/12/10	Holland Fine Art & Cars Pty Ltd	\$ 10,000	Part B - Reportable
14/12/10	Levick, Paul on behalf of Jilliby Stage 2 Land Owners Action Group	\$ 4,000	Part B - Reportable
16/12/10	Adaptive Pty Ltd	\$ 500	Part B - Reportable
16/12/10	Adaptive Pty Ltd	\$ 800	Part B - Reportable
16/12/10	Aline Pumps Sales & Service	\$ 1,490	Part B - Reportable
16/12/10	Allsteel Products Pty Ltd	\$ 1,499	Part B - Reportable
16/12/10	Boardwalk Resources Pty Ltd	\$ 53,000	Part B - Reportable
16/12/10	Firth, Daniel & Maria	\$ 1,490	Part B - Reportable
16/12/10	Fooks Pty Ltd trading as Furnware Trading Co.	\$ 1,499	Part B - Reportable
16/12/10	Fooks Pty Ltd trading as Furnware Trading Co.	\$ 1,499	Part B - Reportable
16/12/10	Fooks Pty Ltd trading as Furnware Trading Co.	\$ 1,499	Part B - Reportable
16/12/10	Fooks, Edwin	\$ 1,000	Part B - Reportable
16/12/10	Gooden, Benjamin trading as Woodchuch Landscape Systems	\$ 1,499	Part B - Reportable
16/12/10	Interspan Industries Pty Ltd	\$ 1,490	Part B - Reportable
16/12/10	Kennard, Daniel	\$ 1,500	Part B - Reportable
16/12/10	Kennard, Jerry	\$ 1,500	Part B - Reportable
16/12/10	Kennard, Neil	\$ 750	Part B - Reportable
16/12/10	Kennard, Priscilla	\$ 750	Part B - Reportable
16/12/10	Kennard, Richard	\$ 1,500	Part B - Reportable
16/12/10	Lindqvist, JS & SJ	\$ 50	Part A - Small
16/12/10	Monks, James	\$ 1,490	Part B - Reportable

List of donations sent to and payments received from the Free Enterprise Foundation and used for State Campaign purposes

Date	Details	State	Classification
16/12/10	Monks, Peter & Gwennyth	\$ 1,000	Part B - Reportable
16/12/10	Pridham, John	\$ 1,500	Part B - Reportable
16/12/10	Pridham, T & GM	\$ 500	Part A - Small
16/12/10	Pridham, T & R	\$ 500	Part A - Small
16/12/10	Pugh, Arthur & Carolyn as trustee for The Advance Precision Trust	\$ 1,499	Part B - Reportable
16/12/10	SFH Pty Ltd as trustee for the Stead Family Trust trading as Grainline	\$ 375	Part B - Reportable
16/12/10	SFH Pty Ltd as trustee for the Stead Family Trust trading as Grainline	\$ 500	Part B - Reportable
16/12/10	SFH Pty Ltd as trustee for the Stead Family Trust trading as Grainline	\$ 600	Part B - Reportable
16/12/10	Sunbeat Bissap Pty Ltd	\$ 10,000	Part B - Reportable
16/12/10	Transnational Storage Pty Ltd	\$ 12,500	Part B - Reportable
16/12/10	Truswell, Kenneth trading as K-Set Engineering	\$ 1,200	Part B - Reportable
16/12/10	Weltson Pty Ltd	\$ 5,000	Part B - Reportable
17/12/10	Davis, Athol	\$ 1,450	Part B - Reportable
17/12/10	Elmslea Land Developments Pty Ltd	\$ 20,000	Part B - Reportable
17/12/10	Fleetwood Urban Pty Ltd	\$ 1,499	Part B - Reportable
17/12/10	Fooks, Stuart	\$ 1,499	Part B - Reportable
17/12/10	Petra Civil Pty Ltd	\$ 2,000	Part B - Reportable
17/12/10	Printban Pty Ltd	\$ 10,000	Part B - Reportable
17/12/10	Roseham Pty Ltd as trustee for The Heaney Family Trust	\$ 1,499	Part B - Reportable
17/12/10	Shore, Chris	\$ 1,499	Part B - Reportable
17/12/10	Windsor Farm Equipment Company	\$ 1,499	Part B - Reportable
20/12/10	Brickworks Limited	\$ 125,000	Part B - Reportable
20/12/10	Town & Country Lands Pty Ltd	\$ 10,000	Part B - Reportable
20/12/10	Washington H Soul Pattinson and Company Ltd (Soul Pattinson)	\$ 50,000	Part B - Reportable
21/12/10	Westfield Corporation Limited	\$ 150,000	Part B - Reportable
22/12/10	Free Enterprise Foundation	\$ (171,000)	Part B - Reportable
22/12/10	Walker Group Holdings Pty Ltd	\$ 100,000	Part B - Reportable
23/12/10	Free Enterprise Foundation	\$ (358,000)	Part B - Reportable
24/12/10	Free Enterprise Foundation	\$ (100,000)	Part B - Reportable
	Total donations sent to the FEF	\$ 680,214	
	Payment received from the FEF	\$ (675,000)	
	Balance	\$ 5,214	

617/014

Amended Disclosure for a Political Party



The information on this form is collected under the *Election Funding, Expenditure and Disclosures Act 1981* and will be made publicly available. Please refer to the relevant funding and disclosure guide available on the New South Wales Electoral Commission's (NSWEC) website (www.elections.nsw.gov.au) when completing this form.

Disclosure Details

NAME OF POLITICAL PARTY ON WHOSE BEHALF THIS AMENDED DISCLOSURE IS MADE:

Liberal Party of Australia, NSW Division

RELEVANT DISCLOSURE PERIOD:

Declaration – this must be completed by the Party Agent

Anthony Nutt

INSERT PARTY AGENT NAME

state that the amendments supplied were omitted or incorrectly declared in the original disclosure of political donations and electoral expenditure lodged with the NSWEC and that the donations and or expenditure specified in this amendment were incurred for the above named political party during the disclosure period.

[Redacted Signature]

5 - April - 2016

SIGNATURE OF PARTY AGENT

DATE

Certificate of a Registered Company Auditor (to be completed by the Auditor)

I, _____ certify that

AUDITOR FULL NAME

- a) I was given full and free access at all reasonable times to all accounts and documents of the agent responsible for lodging the declaration and of the party relating directly or indirectly to any matter required to be disclosed under Part 6 of the *Election Funding, Expenditure and Disclosures Act 1981*;
- b) I duly examined such of those accounts and documents as I considered material for the purposes of giving this certificate;
- c) I received all information and explanations that I asked with respect to any matter required to be set out in the declaration, subject to the qualifications (if any) specified in this certificate; and
- d) I have no reason to think that any statement in the declaration is not correct.

AUDITOR'S SIGNATURE

REGISTRATION NO.

DATE

OFFICE USE ONLY

RECEIVED BY

FILE NO

FADMS DISCLOSURE RECORD NO

Amended Disclosure for a Political Party

Political Party Name: Liberal Party of Australia, NSW Division

Part C. Fundraising Functions or Ventures

C1. Event details of fundraising function(s) or venture(s)

If more space is required please attach an additional list in the same format

Date(s) of Function(s) or Venture(s)	Description or Name of Function(s) or Venture(s)	Proceeds (\$)	Net (N) or Gross (G)	Purpose (State/LG/ Admin)	Legend E, O, A or S
--------------------------------------	--	---------------	----------------------	---------------------------	---------------------

		TOTAL			
--	--	--------------	--	--	--

\$ 0.00

C2. Small Political Donations received at fundraising function(s) or venture(s)

If more space is required please attach an additional list in the same format

Date(s) of Function(s) or Venture(s)	Description or Name of Function(s) or Venture(s)	Total Number of Small Donations	Total Value of Small Donations (\$)	Purpose (State/LG/ Admin)	Legend E, O, A or S
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		TOTAL			
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0 \$ 0.00

C3. Reportable Political Donations received at fundraising function(s) or venture(s)

If more space is required please attach an additional list in the same format

Date Donation was made	Name of Individual eg. Surname, Given Name or Registered Business Name of Entity	Enrolled Address of Individual or Registered Official Address of Entity	Registered Business Number ie ABN/ACN (Entity Only)	Amount or Value of Donation (\$)	Receipt No	Gift Type (Monetary/ Non-Monetary)	Description or Name of Function or Venture(s)	Legend E, O, A or S
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		TOTAL						
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\$ 0.00

Amended Disclosure for a Political Party

Political Party Name: Liberal Party of Australia, NSW Division

Part D. Reportable Loans

If more space is required please attach an additional list in the same format

Date Loan was made	Name of Lender eg. Surname, Given Name or Registered Business Name of Entity	Enrolled Address of Individual or Registered Business Address of Entity	Loan Amount (\$)	Legend E, O, A or S
TOTAL			\$ 0.00	

Part E. Annual Party Membership, Affiliation or Other Subscriptions

If more space is required please attach an additional list in the same format

Party Membership, Affiliation or Other Subscription Rate (\$)	Number of Individuals who paid each rate	Total amount received for each rate (\$)	Payment Type (Membership, Affiliation or Other Subscription)	Legend E, O, A or S
TOTAL	0	\$ 0.00		

Part F. Electoral Communication Expenditure

F1. Advertisements in radio, television, internet, cinemas, newspapers, billboards, posters, brochures, how-to-vote cards and other election material

If more space is required please attach an additional list in the same format

Expenditure Incurred from Date	Expenditure Incurred to Date	Name of Supplier	Product or Service Provided	Amount Incl GST (\$)	Invoice No.	Legend E, O, A or S
TOTAL				\$ 0.00		

Amended Disclosure for a Political Party

Political Party Name: Liberal Party of Australia, NSW Division

F2. Production and Distribution of Election Material

If more space is required please attach an additional list in the same format

Expenditure Incurred from Date	Expenditure Incurred to Date	Name of Supplier	Product or Service Provided	Amount Incl GST (\$)	Invoice No.	Legend E, O, A or S
TOTAL				\$ 0.00		

F3. Internet, Telecommunications, Stationery and Postage

If more space is required please attach an additional list in the same format

Expenditure Incurred from Date	Expenditure Incurred to Date	Name of Supplier	Product or Service Provided	Amount Incl GST (\$)	Invoice No.	Legend E, O, A or S
TOTAL				\$ 0.00		

F4. Employing Staff engaged in election campaigns

If more space is required please attach an additional list in the same format

Expenditure Incurred from Date	Expenditure Incurred to Date	Category of Staff	Service Provided	Amount Incl GST (\$)	Legend E, O, A or S
TOTAL				\$ 0.00	

Amended Disclosure for a Political Party

Political Party Name: Liberal Party of Australia, NSW Division

Part H. Small Political Donations made by the Party

Total number of small donations made	Total Value	Legend E, O, A or S
\$		

Part I. Reportable Political Donations made by the Party

Date Donation was made	Name of NSW Candidate, Group of Candidates, Local Government Councillor, Member of Parliament, Political Party or Third-Party Campaigner (eg Surname, Given Name or Entity Name)	Enrolled Address of Individual or Registered Official Address of Party/ Third-Party Campaigner	Business Number eg. ABN/ACN	Amount or Value of Donations (\$)	Gift Type (Monetary or Non-Monetary)	Legend E, O, A or S
TOTAL				\$ 0.00		

If more space is required please attach an additional list in the same format

Part B. Reportable Political Donations Received General

Date Donation was made	Donor's name	Address	ABN	Amount	Receipt no.	Gift type	Purpose	Legend
06/12/2010	The Free Enterprise Foundation	GPO Box 292, Canberra ACT 2601	18 121 326 981	(64,000.00)	102121	Monetary	State	Omit
22/12/2010	The Free Enterprise Foundation	GPO Box 292, Canberra ACT 2601	18 121 326 981	(171,000.00)	102115	Monetary	State	Omit
23/12/2010	The Free Enterprise Foundation	GPO Box 292, Canberra ACT 2601	18 121 326 981	(358,000.00)	102119	Monetary	State	Omit
24/12/2010	The Free Enterprise Foundation	GPO Box 292, Canberra ACT 2601	18 121 326 981	(100,000.00)	102120	Monetary	State	Omit
16/12/2010	Adaptive Pty Ltd	65 Atherton Crescent, Wagga Wagga NSW 2650	34 113 317 276	500.00		Monetary	State	Add
16/12/2010	Adaptive Pty Ltd	65 Atherton Crescent, Wagga Wagga NSW 2650	34 113 317 276	800.00		Monetary	State	Add
16/12/2010	Aline Pumps Sales & Service	17 Burns Road, Heathcote NSW 2233	12 684 232 254	1,490.00		Monetary	State	Add
16/12/2010	Allsteel Products Pty Ltd	76 North Crescent, Wyoming NSW 2250	73 133 186 320	1,499.00		Monetary	State	Add
05/11/2010	ANZ Real Estate Consultants Pty Ltd	Suite 206, 10 Norwest Central Century Circuit, Baulkham Hills NSW 2153	90 137 166 806	5,000.00		Monetary	State	Add
18/11/2010	Austral Bricks (NSW) Pty Ltd	738-780 Wallgrove Road, Horsley Park NSW 2175	60 125 934 849	5,000.00		Monetary	State	Add
05/11/2010	Belside Pty Ltd	241-245 Pennant Hills Road, Carlingford NSW 2142	23 003 053 978	10,000.00		Monetary	State	Add
06/12/2010	Big Country Developments Pty Ltd	7 Dickson Avenue, Artarmon NSW 2064	24 000 235 953	9,900.00		Monetary	State	Add
16/12/2010	Boardwalk Resources Pty Ltd	C8 The Boardwalk, 1 Honeysuckle Drive, Newcastle NSW 2300	89 130 433 617	53,000.00		Monetary	State	Add
20/12/2010	Brickworks Limited	738-780 Wallgrove Road, Horsley Park NSW 2175	17 000 028 526	125,000.00		Monetary	State	Add
17/12/2010	Davis, Athol	10 Linford Place, Beaumont Hills 2155		1,450.00		Monetary	State	Add
13/12/2010	Dribonn Pty Ltd	405 Victoria Street, Wetherill Park NSW 2164	34 068 436 840	1,499.00		Monetary	State	Add
17/12/2010	Elmslea Land Developments Pty Ltd	City Link Plaza, Suite 12, 30 Morriset Street, Queanbeyan NSW 2620	74 066 447 265	20,000.00		Monetary	State	Add
13/12/2010	Epivision Pty Ltd	405 Victoria Street, Wetherill Park NSW 2164	80 003 287 072	1,499.00		Monetary	State	Add
16/12/2010	Firth, Daniel & Maria	10 Bower Parade, Singleton Heights NSW 2230		1,490.00		Monetary	State	Add
17/12/2010	Fleetwood Urban Pty Ltd	71-73 Melbourne Road, Riverstone NSW 2765	40 000 789 748	1,499.00		Monetary	State	Add
16/12/2010	Fooks Pty Ltd trading as Furnware Trading Co.	18 Burns Road, Heathcote NSW 2233	70 130 565 141	1,499.00		Monetary	State	Add
16/12/2010	Fooks Pty Ltd trading as Furnware Trading Co.	18 Burns Road, Heathcote NSW 2233	70 130 565 141	1,499.00		Monetary	State	Add
16/12/2010	Fooks Pty Ltd trading as Furnware Trading Co.	18 Burns Road, Heathcote NSW 2233	70 130 565 141	1,499.00		Monetary	State	Add
16/12/2010	Fooks, Edwin	32 Quiescent Close, Louth Park NSW 2320		1,000.00		Monetary	State	Add
17/12/2010	Fooks, Stuart	31 Glenrowan Avenue, Kellyville NSW 2155		1,499.00		Monetary	State	Add
16/12/2010	Gooden, Benjamin trading as Woodchuch Landscape Systems	12 Eggleton Close, Singleton Heights NSW 2330	79 763 264 627	1,499.00		Monetary	State	Add
14/12/2010	Holland Fine Art & Cars Pty Ltd	16-32 McLachlan Avenue, Rushcutters Bay NSW 2010	38 002 457 454	10,000.00		Monetary	State	Add
16/12/2010	Interspan Industries Pty Ltd	6 Millennium Court, Silverwater NSW 2128	19 077 875 346	1,490.00		Monetary	State	Add
16/12/2010	Kennard, Daniel	6 Conifer Close, Kariong NSW 2250		1,500.00		Monetary	State	Add
16/12/2010	Kennard, Jerry	144 MacDonalds Road, Lisarow NSW 2250		1,500.00		Monetary	State	Add
16/12/2010	Kennard, Neil	148 MacDonalds Road, Lisarow NSW 2250		750.00		Monetary	State	Add
16/12/2010	Kennard, Priscilla	148 MacDonalds Road, Lisarow NSW 2250		750.00		Monetary	State	Add
16/12/2010	Kennard, Richard	56 Sunset Street, Wyoming NSW 2250		1,500.00		Monetary	State	Add
13/12/2010	Kirkstall Pty Ltd	405 Victoria Street, Wetherill Park NSW 2164	23 003 513 120	1,499.00		Monetary	State	Add
14/12/2010	Levick, Paul on behalf of Jilliby Stage 2 Land Owners Action Group	97 Panonia Road, Wyong NSW 2259		4,000.00		Monetary	State	Add
13/12/2010	Lorset Pty Ltd	405 Victoria Street, Wetherill Park NSW 2164	79 054 074 514	1,499.00		Monetary	State	Add

LIBERAL PARTY OF AUSTRALIA

NEW SOUTH WALES DIVISION

State Director

24 March 2016

By email: Linda.Franklin@elections.nsw.gov.au
Helen.Robinson@elections.nsw.gov.au

Ms Linda Franklin
Acting Electoral Commissioner
NSW Electoral Commission
Level 25, 201 Kent Street
Sydney NSW 2000

Dear Ms Franklin,

I attach a copy of a press release I have issued regarding the ruling by the Electoral Commission yesterday.

In order to comply with our obligations we seek the assistance of the Commission in working through any areas of uncertainty about the legal status of donors in the 2010/2011 period.

Accordingly, I will be in touch early next week with all information known to us and arising from the ICAC "Operation Spicer" hearings to clarify any outstanding matters.

Thank you for your assistance.

Yours sincerely,


Chris Stone
State Director

LIBERAL PARTY OF AUSTRALIA

NEW SOUTH WALES DIVISION

State Director

24 March 2016

NSW Electoral Commission

The Liberal Party of Australia (NSW Division) will comply with the electoral laws.

It had been the Party's expectation that the process would be that the ICAC would issue a report, including findings and recommendations on Operation Spicer, that the Electoral Commission would consider it and make a determination, as required, and that the Party would respond initially to the ICAC and then, if necessary, to the Electoral Commission.

Given the continuing delay in the ICAC being able to finalise these matters because of litigation by others, the remission of certain matters relating to the Liberal Party to the Electoral Commission and the decision yesterday by the full three member panel of the Electoral Commission, I have written to the Commission this afternoon seeking their assistance in resolving any areas of uncertainty about the legal status of donors in the 2010/2011 period so as to comply with our obligations.

These matters occurred six years ago.

The NSW Division has already publicly acknowledged and apologised to the people of NSW for these matters and taken detailed steps to prevent such issues reoccurring.

Media: Alicia McCumstie 0407 416 537