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**JAMIE PARKER MP**  
Member for Balmain



Chief Commissioner  
NSW Independent Commission Against Corruption  
GPO Box 500  
Sydney NSW 2001

Friday 24 May, 2019

Dear Commissioner,

I write to make a submission to the Independent Commission Against Corruption (ICAC) investigation into the regulation of lobbying, access and influence in NSW (Operation Eclipse).

In a broad sense, the capacity for individuals and groups to put forward their ideas to decision makers is central to democracy and good decision making.

But a poorly regulated lobbying system risks giving more of a voice to those wealthy and well-connected individuals and groups who strive for personal profit, rather than the common good.

Who is in the room matters for political outcomes and if those powerful groups are more likely to get access to senior ministers and decision makers, their interests will triumph over those of the public.

As the NSW Greens spokesperson for corruption, I can say that we are strongly in favour of strengthening the regulation of lobbying activities in NSW.

We are also in favour of enacting all 17 Recommendations set out by the ICAC's Operation Halifax in 2010<sup>1</sup>

This submission will respond only to questions of transparency and integrity. Specifically it will address the following questions posed by the consultation paper:

2	Who should be required to register on the Register of Third-party Lobbyists?	Page 3
4	Should there be a distinction between repeat players and ad hoc lobbyists?	Page 3

<sup>1</sup> Investigation into corruption risks involved in lobbying, [see here](#).

5	Should there be target regulation for certain industries? If so, which industries should be targeted?	Page 6
7	Should lobbyists be required to provide details of each lobbying contact they have?	Page 4
8	Should lobbyists be required to disclose how much income they have received and/or how much they have spent on their lobbying activities?	Page 4
9	How should lobbying interactions with ministerial advisers, public servants, and members of Parliament be recorded and disclosed?	Page 5
10	What information should ministers be required to disclose from their diaries and when?	Page 4
11	How can disclosures of lobbying regulation best be presented and formatted to better enable civil society organisations to evaluate the disclosure of lobbying activities?	Page 5
12	Should there be greater integration of lobbying-related data?	Page 5
13	Should the NSW Electoral Commission be required to present an annual analysis of lobbying trends and compliance to the NSW Parliament?	Page 5
15	Should NSW members of Parliament be allowed to undertake paid lobbying activities?	Page 6
17	Should the definition of 'government official' be expanded to include members of Parliament?	Page 3
18	What obligations should apply to government officials in relation to lobbying activities?	Page 4
21	Should there be a cooling off period for former government officials from engaging in any lobbying activity?	Page 6

We encourage you to consider the contents of this submission carefully.

Yours sincerely,



Jamie Parker MP

**Member for Balmain + NSW Greens Spokesperson on Corruption**

## Who should be regulated?

### Beyond third-party lobbyists

In NSW, lobbying is carried out by, and targeted towards, a broader variety of individuals, groups and organisations than those covered by the current system of regulation.

The Register of Third Party Lobbyists only requires individuals or bodies carrying on the paid business of lobbying on behalf of another body. This does not include in-house lobbyists, peak organisations or charities.

**Recommendation 1: Require registration of all those who undertake direct lobbying – both on an ad-hoc basis and repeat players, including third-party lobbyists, in-house lobbyists, peak organisations and charities.**

### The Opposition

It is not sufficient to limit rules around lobbying just to 'government officials'.

While only the Leader and Deputy-Leader of the Opposition are recognised parliamentary positions, the 'shadow ministry' have a role sufficient to warrant their inclusion in lobbying regulations.

Like ministers, shadow ministers and their advisors are often targeted by lobbyists and stakeholders in an effort to influence future government policy. Requiring only those in government to be subject to regulations neglects the influential role played by opposition frontbenchers in modern Australian politics.

**Recommendation 2: Lobbying regulations should be extended to include shadow ministers and their advisors.**

### Members of Parliament

Some public officials<sup>2</sup> should also be subject to lobbying regulations, including members of Parliament.

As a member of Parliament I am often called on to represent the interests of local community organisations, constituents and charities. Some members of Parliament may use their position to represent the pecuniary interests of a local business or constituent.

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<sup>2</sup> The Independent Commission Against Corruption (2019) 'Definitions of public official and public authority', [see here](#).



For this reason, the Canadian system includes members of Parliament in its lobbying Code of Conduct<sup>3</sup>.

**Recommendation 3: Lobbying regulations should be extended to include ministers, parliamentary secretaries, ministerial advisers, senior public servants and members of Parliament.**

#### Local Government

Local Government bodies have often been the subject of ICAC investigation<sup>4</sup>. An ICAC inquiry into the former Canterbury Council forced the resignation of Daryl Maguire, Member for Wagga Wagga last year.

The types of reforms being considered at the NSW Government level are also clearly necessary at the Local Government level especially considering the demonstrated influence of property developers on elected officials at this level.

**Recommendation 4: Lobbyist register should be established for local government officials.**

### Measures to improve transparency

#### Lobbyist Register

As discussed above, the current NSW Third-Party Lobbyist Register applies to only to those employed as third-parties and excludes the activities of in-house lobbyists. Arguments have been made above about the need to expand this Register.

The NSW Third-Party Lobbyist Register should also track the amount of spending undertaken by lobbyists and the interests that engage them.

In NSW, donations to political parties, elected members and candidates are capped in recognition of the potentially corrupting impact of those donations. It follows then that the quantum of funds spent on lobbying these same people should be capped at best and registered at the least.

For the purposes of clarity and to encourage easy of public access and understanding, the Register should also clearly state the grant, contract, issue or legislation that lobbyists seek to influence in their meetings.

**Recommendation 5: Lobbyists should be required to provide details of each lobbying contact they have, how much money they have been paid and spent in their lobbying**

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<sup>3</sup> Office of the Commissioner of Lobbying of Canada (2019) 'Ten Things You Should Know About Lobbying: A Practical Guide for Federal Public Office Holders', [see here](#).

<sup>4</sup> Independent Commission Against Corruption (2019) 'Past Investigations', [see here](#).

activities, as well as specify the grant, contract, issue or legislation they are seeking to influence.

**Recommendation 6: Officials should be required to disclose details of each lobbying contact they have and with whom as well as specify the legislation, grant or contract the lobbying relates to.**

#### Diary disclosures

Diary disclosures are an effective method of enhancing transparency around meetings between lobbyists and decision-makers. Currently, NSW regulation is limited to ministers and to scheduled meetings they take with stakeholders.

This discounts the importance of meetings that occur at official events, town hall meetings, and community functions.

Local government officials are also currently excluded from diary disclosure rules.

**Recommendation 7: Existing provisions for the disclosure of minister's diaries should be extended to include parliamentary secretaries, ministerial advisers, senior public servants and members of Parliament.**

**Recommendation 8: Diary disclosure provisions should extend to cover elected officials in local government.**

**Recommendation 9: Diary disclosure provisions should extend to cover events and functions.**

#### Availability of data

Providing clear, current and easily available information about interactions between lobbyists and officials is the most effective way to increase transparency and reduce the risk and perception of corruption in decision-making.

This information should be available online alongside other relevant information including political donations register of lobbyists, ministerial and shadow ministerial diaries, details of each lobbying contact.

This site should be indexed and searchable so that members of the public are able to access the information easily and create useful meaning from it.

**Recommendation 10: All information relating to lobbyists, lobbying activities, political donations, ministerial diaries and gifts received by public officials should be stored online in a single location and made publically available monthly. Information should be**

appropriately indexed to make it searchable and accessible to civil society organisations, citizens and other interested parties.

**Recommendation 11: Annual analysis of lobbying trends and compliance should be conducted.**

### Targeted industries

The NSW government has already banned political donations from property developers, the tobacco industry, and the liquor and gambling industries.

This ban was upheld by the high court as a legitimate means of pursuing the legitimate objective of removing the risk and perception of corruption and undue influence in NSW politics.

Further the court found that there is a reasonable necessity for singling out corporate property developers and their close associates for differential treatment as political donors. This is because property developers engage in "a profit-making business which is dependent on the exercise of statutory discretions by public officials"<sup>5</sup>.

If it is legitimate and necessary to target some industries' political donations, it should also be legitimate and necessary to target their lobbying activities as 'high risk'.

**Recommendation 12: Property developers, the tobacco industry, the liquor and gambling industries and mining industry should be considered targeted, 'high risk' industries and their lobbying activities should be more closely regulated.**

### Measures to improve integrity

#### Codes of conduct

Codes of conduct should provide a clear statement of the responsibilities and proper practices for lobbyists and officials.

In the course of their work, members of Parliament are expected to represent the interests of a range of local and community organisations. But accepting money in exchange for lobbying efforts is incompatible with the integrity of elected representatives and should be banned.

**Recommendation 13: A code of conduct should be implemented for officials as well as lobbyists.**

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<sup>5</sup> See McCloy v NSW (2015) [here](#).

**Recommendation 14: The lobbyist code of conduct should stipulate mandatory standards of conduct and procedures as recommended by the ICAC Lobbying Report and take up the obligation of truthfulness given by the Queensland Lobbyists Code of Conduct.**

**Recommendation 15: Members of Parliament should not be permitted to act as paid lobbyists.**

#### Cooling-off period

The risk of corruption occurring is increased when former public officials become lobbyists and use their relationships to gain a private advantage.

A report by Transparency International found the practice of politicians becoming lobbyists is "particularly common" in Australia, with 191 of all 538 lobbyists (35 per cent) listed in the Australian federal lobbyist register being former government representatives.<sup>6</sup>

This is still common in NSW for example, just two months after leaving NSW Parliament in March 2019, former Liberal MP Peter Phelps has already taken up a role lobbying his former colleagues on behalf of Cascade Coal.<sup>7</sup>

The movement of staff between industry and politics should be limited by a cooling-off period of five years. During the cooling-off period, identified persons should be prohibited from:

- working as consultant lobbyists;
- working for an organization and carry out lobbying activities on behalf of that organization; or
- working for a corporation if lobbying constitutes a significant part of their work on behalf of the corporation.

A significant cooling-off period also reduces the risk of officials being offered post-separation employment opportunities in return for favourable treatment while in office.

**Recommendation 16: Introduce a cooling off period of five years for all identified persons including ministers, shadow ministers, members of Parliament, parliamentary secretaries, ministerial or shadow ministerial advisers and senior public servants from engaging in any lobby activity.**

#### Pay-per-view lobbying

Events designed to sell access to senior ministers, shadow ministers and members of Parliament present an opportunity for lobbying and related influencing activities that are inimical to the public interest.

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<sup>6</sup> Transparency International (2017) 'Combatting Corruption in Mining Approvals', [see here](#), page 30.

<sup>7</sup> AAP (2019) 'Former Lib lobbying NSW govt for coal miner', [see here](#).

Analysis of political donations in the lead-up to the 2019 election revealed that the NSW Liberal Party held 280 events between July 2017 and December 2018, raising a total of \$2.1million while NSW Labor held 70 fundraisers worth \$650,000<sup>8</sup>.

During that period, a Catholic parish in Port Macquarie engaged in the pay per view model when it donated \$2000 to the National Party to go to a dinner with the NSW deputy premier John Barilaro in June to discuss aged care.

Father Paul Gooley said "we are just looking to have a voice as a charity and, unfortunately, the way things are changing it seems that you have to pay for that."

Former Queensland Premier Anna Bligh banned QLD Labor MPs from participating in pay-per-view fundraising events in 2009<sup>9</sup>, despite reneging on that promise in 2012.

**Recommendation 17: Pay-per-view political fundraising events should be banned in NSW for all senior ministers, shadow ministers and members of Parliament.**

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<sup>8</sup> Nigel Gladstone (2019) 'Liberal donations from events triple Labor ahead of NSW election', *Sydney Morning Herald*, [see here](#).

<sup>9</sup> Steven Wardill (2012) 'Anna Bligh does backflip on pay-per-view politics with party fundraiser', *The Courier Mail*, [see here](#).