The ways of the world: Implications of political donations for the integrity of planning systems

Julie Walton
Title

The ways of the world – implications of political donations for the integrity of planning systems.

Key Points

• The integrity of planning systems can be undermined by undue influence, not just by corrupt behaviour. In time, both damage the democratic system.

• Political donations can purchase political influence. This is undue influence at best, corruption at worst.

• Planning systems cannot co-exist with a weak political donations regime and maintain their integrity.

• The declaration of donations from the development industry is an inadequate response. Taking money out of the equation is warranted.

• Confining flexibility in the planning system to means, not ends, is also warranted. Flexible ends undermine the legitimacy of planning systems as well as posing a threat to their integrity.

Context

Persistent concerns about donations influencing elected officials are met with retorts that donations “support democracy” and donors expect and receive nothing in return. These concerns have been voiced largely, though not exclusively, in relation to planning decisions. The fact that the development industry has been the biggest source of donations to Australia’s major political parties for many years has not gone unnoticed.

The paucity of hard evidence has made it hard to verify, or to discount, such concerns. Empirical evidence on corruption and undue influence is however becoming more available as anti-corruption agencies and special-purpose Tribunals are established in places with similar political systems and planning systems, and publish investigation reports and transcripts of their proceedings. Political donations surface repeatedly in these documents.

These official reports and transcripts function as case studies, which add

FURTHER INFORMATION

This paper is based on The Henry Halloran Trust Practitioner in Residence Project. The full paper from this project can be found on the Henry Halloran Trust Website:

http://sydney.edu.au/halloran/programs/

Contact: Kim Beecroft
Room 450 Wilkinson Building G04
The University of Sydney NSW 2006
T +61 2 9351 2771
E kim.beecroft@sydney.edu.au
considerably to the research published in scholarly journals.

This paper attempts to narrow a particular part of the research gap: the use of political donations as a method of securing influence over the land development process. Doing so provides a basis for the consideration of effective measures to protect the integrity of planning systems.

**Sources**

The paper draws on case studies drawn from corruption investigations in NSW, Western Australia, and Ireland (the Mahon Tribunal).

The research task for this project entailed reviewing published reports on such investigations, identifying those associated with development decisions, and isolating those in which donations played a part.

This empirical evidence is supplemented by academic publications in the fields of law, psychology and political science, and by material presented to courts and parliamentary inquiries. Some use is also made of media reports and interviews, which record public statements by fundraisers, donors and recipients on the subject of donations and influence.

**Key Findings**

1. **The issue is influence**

   Corruption is an obvious threat to the integrity of planning systems. Less obvious but equally important is the issue of undue influence. Corruption and undue influence sit at different points on a continuum; with legitimate influence at one end, corruption at the other, and undue influence somewhere between the two.

   Modern political fundraisers have taken the easy path of seeking big donations from a small group of “high net worth” individuals clustered in a few industries, notably the property development industry. To make matters worse, they have taken to “flogging access” to key decision makers; a form of influence peddling that became normalised on both sides of politics by its prevalence since the 1980s.

   As a key former fundraiser now ruefully admits, the practice “fails the smell test”. Psychological research by Cialdini and others confirms that though they may not realise it, recipients are likely to be influenced by political donations; gifts elicit the very human behavioural response of “reciprocity”.

   The damage caused by the purchase and sale of influence over elected representatives extends beyond planning systems. It cannot be reconciled with the legitimate expectations of citizens in a functioning democracy: the rule of law, political equality, and decisions made in the public interest.

2. **Planning systems are a prime target**

   Planning decisions are highly valuable discretionary decisions. For this reason there is a heightened risk of corruption and undue influence inherent in planning systems. Political donations are the source of much of this risk in the case of
elected officials.

3. Transparency is not enough

Elected representatives are placed in a position of serious conflict of interest if they or their parties become reliant on donations from industries highly dependent on government decisions. A steady flow of donations is best secured by paying close attention to the interests and requests of donors.

Disclosure is not enough in the case of political donations from industries (like the development industry) with much to gain or lose from government decisions.

Fundamentally, there is no good reason elected officials should be put in a position of such deep conflict of interest in the first place.

4. Intermediaries need attention

Lobbyists and party officials are key intermediaries between donors and elected officials. Their central role is unmistakable.

The potential for lobbyists to use political donations as a key part of their lobbying strategy has been well demonstrated. Lobbyists involved in securing and disbursing political donations, in tandem with lobbying decision-makers, feature in several investigations in Ireland and in Australia.

The prospects of both elected officials and candidates depend to a greater or lesser degree on the goodwill of a party head office dominated by the task of fundraising. The presence of lobbyists in official positions within some political parties exacerbates the potential problem inherent in this situation.

5. Planners under pressure

Donor influence on elected decision-makers is not a mere side issue for planners. Its fundamental purpose is to secure windfall gain and to divert public resources, by altering the normal course of the planning system and changing its outcomes.

This inevitably produces pressure on planners to make particular decisions or to provide certain recommendations; this can make their position difficult if not untenable. Donor influence may not be evident, but it can be potent.

6. Flexible means vs. flexible ends

The benefits of “flexibility” in the planning system should not be overstated. Part of the reason planners can find themselves in a precarious position is the ability to give consent to proposals that do not comply with planning controls.

Planning systems purport to value public consultation. There is nothing unfair or unwise about a “negotiated outcome” concerning the means by which an end developed in an open and inclusive way is to be reached. The same cannot necessarily be said of negotiations in which the end itself can be traded off, behind closed doors, for some other end entirely.

There is a way to give sufficient latitude to decision-makers to deliver positive outcomes without needless risk to the integrity of the planning system. This entails limiting flexibility in the system to means, as opposed to ends.
Implications for Practice

Donor influence can impede the achievement of the objectives of the planning system (be they modest or ambitious). The standing of professional planners suffers if the work they do is undermined in this way.

Prohibiting developer donations and donations from lobbyists, and removing lobbyists from positions in political parties, would free planning practice from a potent source of potential interference.

Confining the idea of “flexibility” in planning to means, as opposed to ends, would value and build on the open participation processes central to modern planning systems.

Clear and robust objectives that function well when tested by override provisions enhance planning practice. The ability to develop them is an important, and teachable, practical skill.