

Investigation Report

Hancock Prospecting Pty Ltd, Sydney
Mining Club and the Liberal Party of
Australia

Foreword

The objective of the financial disclosure provisions contained in Part XX of the *Commonwealth Electoral Act 1918* (Electoral Act) is to ensure disclosure. This is to enable voters to inform themselves of the financial dealings of registered political parties and other political players.

The Australian Electoral Commission (AEC) has a long-standing practice of accepting late and amended disclosure returns at any time. Once disclosure has been achieved the AEC will generally not pursue the matter any further, as the intent of the Electoral Act has, in the AEC's view, been achieved.

The matter

Whether appropriate disclosures have been made under Part XX of the Electoral Act by relevant entities in respect of the purchase from the Liberal Party of Australia of a subscription to the Australian Business Network.

When and how matter raised

On 9 February 2023, the ABC published an article stating that Hancock Prospecting Pty Ltd (Hancock Prospecting) made a \$150,000 payment to the Liberal Party of Australia, transferred via a third party, Sydney Mining Club, and did not disclose it prior to the due date for lodging disclosures under the Electoral Act. The ABC further reported that an anti-corruption expert believes the transactions were a scheme to bypass political donation laws.

On 10 February 2023, the Guardian published a similar article, quoting the ABC article. The Guardian stated that transparency experts have warned of a loophole in the nation's donation disclosure laws following allegations that undeclared payments from Hancock Prospecting flowed to the Liberal Party of Australia.

Hancock Prospecting submitted a donor return to the AEC on 4 February 2023 disclosing donations to the Liberal Party of Australia in the 2020-21 financial year to the value of \$150,000. This disclosure return was published by the AEC on 21 February 2023.

Prior to formally commencing the investigation, the AEC had obtained an understanding of the transactions through discussions with Hancock Prospecting, the Sydney Mining Club and the Liberal Party of Australia, as part of standard business processes.

Legislation

Part XX of the *Commonwealth Electoral Act 1918*

Criminal Code Act 1995

AEC Process

The AEC considered information from the following sources:

- Information publicly available in media articles
- Information and documents received and/or sighted from Hancock Prospecting in response to notices issued by an authorised officer of the AEC under s 316(3) of the Electoral Act
- Information and documents received from the Sydney Mining Club in response to a notice issued by an authorised officer of the AEC under s 316(3) of the Electoral Act
- Information and documents received from the Liberal Party of Australia in relation to a notice issued by an authorised officer of the AEC under s 316(3) of the Electoral Act
- Advice received from the Australian Government Solicitor.

Considerations

Disclosures required under Part XX of the Electoral Act underpin the integrity of the Australian electoral system.

Under subsection 316(3) of the Electoral Act, an authorised officer may require a person to produce documents or give evidence if the authorised officer has 'reasonable grounds' for believing the person is capable of producing evidence relating to a possible contravention.

On 19 December 2023, an authorised officer for the purpose of s 316(3) of the Electoral Act issued notices to the following persons requiring the production of documents and other information relating to the financial transactions:

- the company secretary of Hancock Prospecting
- the chairman of the Sydney Mining Club and
- the party agent of the Liberal Party of Australia.

Two subsequent notices were issued under s 316(3) to Hancock Prospecting to obtain additional information during the course of the investigation.

In the interests of natural justice, persons responding to the s 316(3) notices and any other further queries were provided a reasonable period of time to provide a response.

AEC officers also attended the Perth office of Hancock Prospecting to sight documentation.

During the course of the investigation the AEC sought the advice of the Australian Government Solicitor.

Disclosure

On 4 February 2023 Hancock Prospecting lodged a 2020-21 donor return disclosing a \$150,000 donation to the Liberal Party of Australia on 29 June 2021. This return was

published by the AEC on 21 February 2023¹. The 2020-21 donor return was due to be lodged by 17 November 2021.

The Liberal Party of Australia included a disclosure of \$144,000 in category 'other receipts' from the Sydney Mining Club in its 2021-22 disclosure return².

Factual Findings

The AEC did not find any evidence of a deliberate scheme to avoid donation disclosure.

Following examination of the documents submitted to the AEC, the AEC confirmed that a membership to the Australian Business Network had been purchased from the Liberal Party of Australia by the Sydney Mining Club.

There was an agreement between Hancock Prospecting and Sydney Mining Club to purchase a mutually benefitting subscription.

It was agreed between Hancock Prospecting and the Sydney Mining Club that:

- Hancock Prospecting would pay \$190,000 to the Sydney Mining Club; and
- out of that amount:
 - i. \$150,000 would be used by the Sydney Mining Club to subscribe to the Liberal Party of Australia's 'Australian Business Network' (premium platinum subscription package); and
 - ii. \$40,000 would be utilised for Hancock Prospecting's platinum sponsorship of the Sydney Mining Club.

The examination of documents further indicates that both the Sydney Mining Club and Hancock Prospecting received direct benefits, such as attendance at a number of events, from the subscription purchase.

In the Electoral Act, a donation has the same meaning as a gift. A gift is defined in s 287(1) of the Electoral Act to be any disposition of property made by a person to another person, being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration. A gift does not include:

- (a) an election funding payment under Division 3; or
- (b) an annual subscription paid to a political party, to a State branch of a political party or to a division of a State branch of a political party by a person in respect of the person's membership of the party, branch or division; or

¹ <https://transparency.aec.gov.au/AnnualDonor/ReturnDetail?returnId=65638>

² <https://transparency.aec.gov.au/AnnualPoliticalParty/ReturnDetail?returnId=67820>

(c) any visit, experience or activity provided for the purposes of a political exchange program.

The AEC considers that the comparison of value for the purposes of the definition of 'gift' in s 287(1) of the Electoral Act should be measured objectively. The objective test requires comparing the value of what was paid with the value of what was given. In this case, the \$150,000 payment by Hancock Prospecting to the Sydney Mining Club for the premium platinum subscription package, which ultimately benefited the Liberal Party of Australia, is likely a gift that is regulated by s 305B of the Electoral Act.

The value of the benefits from the subscription purchased by the Sydney Mining Club has not been quantified by the AEC, given that Hancock Prospecting lodged a 2020-21 donor return indicating a \$150,000 donation, i.e. the full value of the subscription, to the Liberal Party of Australia.

The Liberal Party of Australia disclosed \$144,000 of the amount received from the Sydney Mining Club in its 2021-22 Political Party disclosure return, in accordance with the party's obligations in ss 314AB and 314AC of the Electoral Act³⁴.

Conclusion

Based on the evidence gathered during the course of the investigation, the AEC has concluded that Hancock Prospecting provided a gift of \$150,000 to the Liberal Party of Australia through its provision of funds to Sydney Mining Club for the purpose of purchasing a subscription to the Australian Business Network. Disclosure of the gift has been achieved through Hancock Prospecting's lodgement of a donor disclosure return on 4 February 2023.

While Hancock Prospecting's donor disclosure return was lodged late, there is no evidence to suggest deliberate avoidance on the part of Hancock Prospecting, the Sydney Mining Club or the Liberal Party of Australia. The AEC considers there was a lack of knowledge that the payment constituted a gift, given that Hancock Prospecting considered it was enabling the Sydney Mining Club to purchase a subscription that would benefit the commercial and economic aims of both entities through advocacy activities.

The matter is considered closed, and the AEC is not pursuing the matter further.

³ The amount paid to the Liberal Party of Australia from the Sydney Mining Club was \$150,000 made up of six amounts of \$24,000 and one smaller amount of \$6,000, due to daily transaction limits. \$144,000 was disclosed, being the six amounts of \$24,000 (amounts greater than the disclosure threshold).

⁴ The payment made by Hancock Prospecting to the Sydney Mining Club on 29 June 2021 was for the financial year 1 July 2021 to 30 June 2022. Amounts were paid by the Sydney Mining Club to the Liberal Party of Australia in the 2021-22 financial year, and therefore disclosed by the Liberal Party of Australia in the year of receipt, being 2021-22 financial year.