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Leong, S. & Hazelton, J. (2010). Accountability via central database regimes in the context of NSW political donations. *9th CSEAR Australasian Conference : getting the balance right* (5 - 7 December, 2010 : Albury-Wodonga, Australia).

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<http://www.csu.edu.au/faculty/business/account/csear10/docs/papers/Leong.pdf>

ACCOUNTABILITY VIA CENTRAL DATABASE REGIMES IN THE CONTEXT OF NSW POLITICAL DONATIONS

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Abstract

Purpose: We examine the extent to which the NSW political finance disclosure regime promotes accountability in order to both improve transparency as well as understand how accountability might be realised through a central database regime (CDR). A CDR is system in which organizations report information to a central agency, which then ensures that the information is accessible in a publically-available database. This paper also outlines the benefits and limitations of using CDRs as accountability mechanisms.

Design/Methodology: A framework for assessing accountability is derived from John Dryzek's discursive democracy and then applied to the NSW disclosure regime through an analysis of submissions to a recent Parliamentary Inquiry.

Findings: Our analysis of the data is not yet complete. However our initial observations are that the potential of this particular CDR to enhance accountability is not realised. We suggest that CDRs have the potential to significantly enhance accountability relative to TBL reports, primarily by collecting and presenting information at the level most relevant to the issue at hand, which is often not that of the organisation. For stakeholders with an interest in organisation-level performance, however, TBL reports may still perform an important accountability role.

Originality/Value: Few prior studies have considered disclosures in relation to political donations or the relative merits of disclosures in databases versus TBL reports. We also develop a framework for accountability derived from the recent work of political theorist John Dryzek.

Key words: Political donations, databases, triple bottom line reporting

Paper type: Empirical

1.0 Introduction

A central purpose of social and environmental accounting (SEA) is to develop new forms of accounting which allow citizens to hold organisations accountable for their social and environmental impacts (Gray *et al.*, 1996). SEA research has thus examined new forms of accountability including web-forums (Unerman and Bennett, 2004); online counter accounting (Gallhofer *et al.*, 2006); 'leading edge' reforms (Cooper and Owen, 2007); and sustainable cost calculation (Bebbington and Gray, 2001).

Numerous studies have also investigated the sufficiency, trustworthiness and usefulness of voluntary social and environmental disclosure (Tilt, 1994; Deegan and Rankin, 1996; Adams, 2004; Danastas and Gedenne, 2006) and have largely found it lacking. This has led to calls for mandatory sustainability reporting (Gallhofer and Haslam, 1996; Gray and Milne, 2002; Adams, 2004) and government inquiries into the matter (Legislative Assembly Public Accounts Committee, 2005 ; Parliamentary Joint Committee on Corporations and Financial Services, 2006). Critical theorists have frequently posited that sustainability will not be achieved without a radical transformation of social and political relationships (Tinker, 1991; Tinker *et al.*, 1991; Tinker and Gray, 2003), fearing that the business world will likely 'capture' any sustainability reporting process to ensure that the contradictions and exploitation inherent in capitalism are never revealed (Brown and Fraser, 2006). Whilst these concerns are well-founded, some studies have identified benefits from disclosure programs (Fung and O'Rourke, 2000; Stephan, 2002). The disclosure examined by these studies is not, however, that of the corporate annual reporting process, a point discussed further below.

The majority of SEA studies are concerned with disclosure at the organisational level, such as triple-bottom line (TBL) reports (Mathews, 1997; Gray, 2002; Mathews, 2004; Gray, 2005; Lamberton, 2005; Parker, 2005; Gray and Guthrie, 2007; Unerman *et al.*, 2007; Owen, 2008). Such work has advanced our knowledge of organisational reporting, but also found that it may not be possible to address certain sustainability questions at the level of the firm. For example, Gray (2010, p. 48) observes that:

Any simple assessment of the relationship between a single organisation and planetary sustainability is virtually impossible. The relationships and interrelationships are simply too complex. Furthermore, to assume that the notion of "sustainability" has tangible meaning at the level of organisation is to ignore all we know about sustainability. Sustainability is a systems-based concept and, environmentally at least, only begins to make any sense at the level of eco-systems and is probably difficult to really conceptualise at anything below planetary and species levels.

This limitation means that even if organisational sustainability reports were mandatory, comprehensive and reliable, they may be of limited use in many social and environmental disputes. In the area of pollution, for example, some are concerned about total company emissions, but many may not. People are more likely to be concerned about issues such as: the nature of chemicals released from a nearby site (requiring facility level data); or total river pollution from all facilities attributable to a certain catchment area (necessitating area-level data); or the pollution that a particular community, town, state or nation is exposed to (which requires systems-level data). Whilst TBL reports might provide facility level information, no matter how perfect TBL reporting becomes, it

is difficult imagining them presenting area or systems level information. One might be able to obtain such data by going through each report and aggregating the information, but this would be time consuming and require knowing each and every organisation involved. An alternative approach to organisational sustainability reports is what we term a 'central database regime' (CDR).

A CDR is a system in which all reporting entities provide data to a central agency (or central agencies) which ensures that it is accessible through a publically available database. Examples are listed in Table 1. Having this data all in one database not only makes it potentially easier for users to perform systems and area level analysis, but also to compare one reporting entity against either a sample of reporting entities or the entire population of reporting entities. Without such a format, users would have to identify and locate the sustainability report of each organisation they wanted in the sample and then convert the information to a common metric – assuming such information is available in every report. Obviously, the degree to which individual CDRs are useful for obtaining systems/area level data or compare reporting entities depends on their designs.

Even though CDRs have existed for decades and feature prominently in environmental disclosure discussions (Tietenberg, 1998; Stephen, 2002; Beierle, 2003; Kathuria, 2009), they have been the subject of few SEA studies. Perhaps the best known CDR is the US Environmental Protection Agency's (EPA) Toxics Release Inventory (TRI). The TRI program requires industrial and federal facilities to annually disclose the amount of each of the nearly 650 listed substances they emit. This information is accessible through a publically available database which permits users to search and organise data by facility, chemical, area or industry. By many accounts, the TRI is one of the most successful environmental disclosure programs and has been credited with causing a 45% reduction in listed chemical emissions over seven years (Fung and O'Rourke, 2000). The TRI has been replicated in many parts of the world including Canada (the National Pollutant Release Inventory), Australia (the National Pollutant Inventory) and the UK (the Pollution Inventory). This approach is also being applied to other environmental issues such as greenhouse gas emissions and water: Australian examples include the forthcoming Natural Greenhouse and Energy Reporting Register, the Australian Water Resources Information System and the Environmental Reporting Tool (which details for each suburb information regarding threatened species, important wetlands, heritage sites, pollutant emissions).

CDRs can also be used for social disclosures. One such use is to record donations to political parties by both individuals and organisations. For good or ill, political donations present a way by which organisations can potentially influence government decisions and thereby affect society – a topic which has been the subject of a few SEA studies including: Cho *et al.* (2006); Cho *et al.* (2008); Dwyer and Roberts (2004); Roberts *et al.* (2003); Roberts and Bobek (2004); and Thornburg and Roberts (2008). Political donation accountability is of such importance that it is a mandatory GRI component.

It might be argued that the very notion of allowing organisations to make political donations is problematic. However, there are a whole host of moral issues involved and the moral status of corporate political donations is far from clear-cut (Leong, 2007). Leong (2009) has even suggested a mechanism known as a democratic enhancement fund which might be used to realise the benefits of corporate donations without incurring their costs.

The objectives of this paper are to: A) present an exploration of CDRs and their potential role in accountability; and B) to present an analysis of a real life political donation CDR. Our paper contributes to the literature by firstly adding to the understanding of political donation disclosure, which has received limited attention within SEA research. Further, our paper responds to calls for greater theorisation of accountability and disclosure that have been made from both within SEA (Spence, 2009) and outside (Stephan, 2002). Prior SEA literature has mostly focused on investigating *what* organisations report, with little consideration as to *how* they should be reporting. This paper derives explicit prescriptive theory against which the current situation can be judged, thereby giving it a more normative focus.

The paper is structured as follows. Following this introduction, Section 2 explains the essential characteristics of CDRs and provides a literature review. Section 3 derives a theoretical framework for assessing how CDRs contribute to accountability from the political philosophy of John Dryzek. This framework is then used to assess the political donation CDR in the Australian state of New South Wales (NSW) in Section 4. This analysis not only provides an example of the framework in use, but is also important in its own right as political donation accountability is an important element in democracy. Overall, it is found that the NSW system had a small potential to increase accountability, but problems regarding timeliness and relevance/comprehensiveness prevent this small potential from being fully realised. Section 5 presents the conclusions of this study.

2.0 Central Database Regimes

This section outlines prior research concerning CDRs. As noted above, we define a CDR as a system in which all reporting entities provide data to a central agency (or central agencies) which ensures that it is accessible through a publically available database. While this definition is somewhat vague, a CDR has the following essential components:

1. **Central:** Reporting organisations do not directly release reports to the public. Instead, their reports are collected by either single agency or group of agencies working together. These agencies are usually government departments, but there is no reason why a CDR could not be maintained by an NGO or private organisation.
2. **Database:** The information collected from the reporting entities is made available in a publically accessible database. The term database as used here is a catch-all term for information repository. There is no distinction between a sophisticated database with advanced search facilities, an online collection of Pdf files, or a graphical information system. CDRs are typically available online, but this is not a necessity.
3. **Regime:** A CDR refers to more than the hardware, software and information involved in the database. It is also concerned with how these components interact with society and other bodies of knowledge needed to turn data into information.

Individual CDRs may vary widely. Some may require a subscription fee and others might not. Some CDRs may be audited and others are not. Some CDRs rely on information provided by reporting entities and others may rely on third parties collecting the information. The following sections

discuss the two most prominent CDRs - pollutant release and transfer registers (PRTs) and political finance databases.

2.1 Pollutant Release and Transfer Inventories

As its name implies, PRTs requires organisations to report the type and quantity of pollutions released and/or transferred to sewage and landfill. The information is typically made available in an online database. There are many PRTs worldwide including the TRI (previously discussed) and the National Pollutant Inventory (NPI) in Australia.

The TRI (and other PRTs) have frequently been referred to as a successful program (Konar and Cohen, 1995; Jobe, 1999; EPA, 2003; Stephen *et al.*, 2005). Fung and O'Rourke (2000) attribute the success of TRI primarily to the fact that the database focused public attention on the worst performers. Facilities on the list of worst polluters drew unwanted attention, which was detrimental to both their public image and share price. Therefore facilities on the blacklist had incentive to get off it whilst those not on the list had incentive to stay off. The result was a situation which encouraged continuous improvement (Fung and O'Rourke, 2000).

Other researchers have been less enthusiastic. Using the TRI to facilitate comparisons between industries, processes and operations is hindered by changing reporting requirements, changing chemical lists and the fact that reporting is on total emissions rather than specific processes (Gerde and Logsdon, 2001). Further, Natan and Miller (1998) find that a large proportion of the reduction of TRI chemicals from 1991 to 1994 were paper changes and that very little improvement was caused by source reduction. This does not automatically suggest that organisations are manipulating their pollutant releases, as De Marchi and Hamilton (2006) compared TRI data with that gathered from EPA monitors and found mixed results. In some cases the reported TRI data presented a more favourable picture, in other cases it did not.

Still other authors have suggested that the benefits of PRTs are overstated. Koehler and Spengler (2007) observe that the majority of empirical analyses involving TRI data fail to adequately control for facility and chemical specific factors such as industry characteristics, regulatory influences and market effects. Further, Grant and Jones (2004) suggest that factors such as industry type and organisational size may have had greater influence on pollution reduction than right-to-know programs. Finally, Harrison and Antweiler (2003) find that the majority of reductions reported to Canada's National Pollutant Release Inventory (NPRI) were not voluntary, but instead attributable to regulations.

More recently, Thorning (2009) has found evidence that the major problem with the Australian NPI is not that people are uninterested or unable to understand it, but rather that they do not know it exists. Indeed, when Howes (2001) had a group of students use both the Australian NPI and the US TRI, it was found that the former easier to use.

SEA research has typically used PRTs solely as a proxy for relative environmental performance (Pattern, 2002; Al-Tuwaijri *et al.*, 2004; Clarkson *et al.*, 2008), although there have been a few studies that look at PRTs directly. Sullivan and Gouldson (2007) describe how PRTs often lack all the information needed to benchmark environmental performance, but are still more useful than

corporate environmental reports for that purpose. Cunningham and Gedenne (2003) use the introduction of the NPI reporting requirements to test whether mandatory reporting requirements causes increased voluntary disclosure. The SEA paper that comes closest to studying how PRTRs contribute to accountability is Saka *et al.* (2004) who compare the quality of information provided by PRTRs around the world using the International Accounting Standard Committee's conceptual framework. They find: a) PRTRs generally produce poor quality data; b) the rules in each country are different so PRTR data cannot easily be compared cross-country; and c) PRTR data is generally absent from corporate sustainability reports. Overall, however, there has been little research into how CDRs can affect accountability, or their advantages and disadvantages when compared to TBL reports. We now turn to discussing political donation CDRs.

2.2 Political Donation Databases

CDRs have been employed in many countries – including Australia, the US and Canada – to provide details concerning donors, receivers and details of campaign contributions. Wilcox (2005) argues that an ideal political donation disclosure system is one that allows users to: a) learn the identity of major donors and their interests in political decisions; and b) trace where money came from and where it went. Wilcox then proceeds to go into detail about what such a system would require.

It has been argued that proper political finance disclosure can help voters make a more informed choice (Nassmacher, 2003a) by providing them with information on the interests financing particular candidates and parties. This can help voters evaluate a candidate/party's position on an issue (Hourigan, 2006). However, disclosure potentially has side-effects. Fear of retaliation may discourage donations; candidates might discourage donors to their competitors by revealing their large war chests; and maintaining a disclosure regime places an administrative burden on citizens (Johnson, 2005). At an extreme, if the law is overly complex and there is little tolerance for mistakes, then citizens may have difficulty becoming involved in elections without accidentally breaking the law (Smith, 2003a; Johnson, 2005).

Prior SEA studies have used political donation data (Dwyer and Roberts, 2004; Roberts and Bobek, 2004; Cho *et al.*, 2006; Thornburg and Roberts, 2008), but only as a variable to study. For example, Cho *et al.* (2008) use political donation information to study how the chemical and petroleum industries attempt to suppress environmental disclosure and Dwyer and Roberts (2004) ascertain the CPA profession's involvement in the financing of political campaigns during proposed accounting reform discussions. Outside of SEA however, Malbin and Gais (1998), outline, discuss and critique the chain of steps that must occur in order for disclosure to be a means by which voters can potentially punish candidates for entering improper financial relationships.

In order to determine the potential contribution CDRs might make to accountability, we need a framework outlining what accountability is and how an accountability mechanism can be assessed. Its derivation is described in the next section.

3.0 Theoretical Framework

The theoretical framework is derived from the work of John Dryzek, who is described by Smith (2003b) as being 'the earliest and best-known advocate of deliberative democracy from within green

politics.’ Blau (2010) observes that Dryzek is ‘important in his own right and as an influential exponent of Habermas’ (Blau, 2010, p. 3) and is noteworthy for his ‘shunning of liberal, state-centred deliberative democracy ...[and addressing] more concrete questions of institutions design than Habermas and most of his followers....’ (Blau, 2010, p. 3)’.

Habermas himself has been widely utilised in SEA to inform evaluations of: stakeholder dialogue (e.g. Unerman and Bennett, 2004; Cooper and Owen, 2007); accounting standards (Rasche and Esser, 2006; Gilbert and Rasche, 2007); argumentation models (Shapiro, 1998); and the role of SEA (Lehman, 2001; Lehman, 2005). While we remain within a broadly Habermasian concept of accountability, Dryzek suggests an alternative conceptualisation of a number of Habermas’ ideas which are more suited to our project. These differences are discussed below, but in general terms, Dryzek’s conception of discourse is wider than that of Habermas. For a more detailed comparison of Dryzek and Habermas, see Mendonca (2008).

Dryzek has been cited once or twice in numerous SEA papers (Young, 2003; Laine, 2005; O’Dwyer, 2005; Gallhofer *et al.*, 2006; Shafer, 2006; Richardson, 2008; Brown, 2009; Milne *et al.*, 2009; Gray, 2010), but Dryzekian theory has not been previously used to create an SEA accountability framework. Dryzekian theory has, however, seen greater use in other disciplines. Smith (2003b) uses Dryzek’s discursive democracy model when discussing models for environmental issues. Cochran (2002) uses Dryzek’s work on democratisation and transnational democracy to critique David Held’s cosmopolitan democracy. Hayward (1995) draws upon Dryzek’s work to discuss participatory democracy and environmental issues.

The purpose of this framework is to help assess how CDRs enhance or fail to enhance accountability. Dryzek (2009c, p. 11), whose conception of democracy underlies this framework, states that accountability literally means ‘giving an account’.¹ This is consistent with definitions that have been used in SEA literature, including Gray *et al.’s* (1996, p. 38) often-used ‘the duty to provide an account (by no means a financial account) or reckoning of those actions for which one is held responsible’. Cooper and Owen (2007), however, argue that true accountability requires not only giving an account, but also that accountees be empowered to hold accountors responsible for their actions. Although they do not suggest how such accountability might be brought about, the point remains that unless accountability is defined in this way, an organization which completely disregards the safety of its workers but is transparent about its activities could truthfully claim to be accountable.

Accountability is therefore more accurately defined as ‘a relationship in which people are required to explain and take responsibility for their actions’ (Sinclair, 1995, p. 220). In order to dovetail better with Dryzek’s (2009b; 2009c) views on accountability in democracy, the definition of accountability used here is: a relationship in which those empowered to make collective decisions (i.e. empowered spaces) are required to explain and take responsibility for their actions.

Assessing the potential of CDRs - or TBL reports for that matter- to enhance accountability involves determining the degree to which it helps create a relationship in which empowered spaces are

¹ As will be shown later, accountability has also been defined by Dryzek (2009c, p. 9) as when ‘empowered space answers to deliberative space for actions.’ We do not believe that this definition conflicts with the one selected for use in this paper.

required to explain and take responsibility for their actions. The quality of an accountability mechanism can be viewed as a sliding scale: better mechanisms will require accountors to take responsibility for their actions, whilst poorer ones will only require them to explain and justify their actions. In order to create a framework that permits assessment of both transparency and power relations, our model is divided into two components, reporting mechanism and deliberative capacity.

3.1 Reporting Mechanism

This component is concerned with the degree to which a CDR can provide information that is valuable – i.e. useful and worth obtaining. The considerations which determine the usefulness of a reporting mechanism are:

- a. Representational feasibility (extent to which it is possible to usefully represent a particular sustainability issue using the mechanism)
- b. Relevance/comprehensiveness
- c. Reliability
- d. Timeliness
- e. Accessibility/usability

These considerations derive from the International Accounting Standard Board's (IASB) (2008) draft conceptual framework which, although designed for financial reporting, still provides insights relevant for social and environmental reporting. Adjustments to the IASB framework were necessary in order to make our model more appropriate to assessing CDRs and easier to use for creating coding categories.

These considerations are often interconnected and can influence each other. For example, if data is not complete, then it may become both unreliable and irrelevant. If data is not timely, it may become irrelevant. It is therefore very difficult to draw a sharp distinction between considerations. To make matter even more complicated, a mechanism may still have value if some considerations are not met. For example, even if data is incomplete, unreliable and irrelevant, it may still enhance corporate accountability by highlighting concerning relationships. Each of these considerations is elaborated below.

Representational Feasibility

Representational feasibility is concerned with the extent to which it is possible to usefully represent a particular social issue using a CDR. Whilst it is technically possible to report any issue using a CDR, it is not always practical or beneficial. For example, one contemporary social issue is whether coal mining should be permitted in the Liverpool Plains and whether such mining can occur without damaging the farmland (Ferguson, 2009). This issue is too complex to describe in the short amount of space appropriate for a database entry and there does not appear to be any obvious benefit of having this information in a database. Such information would appear to be better off reported in a TBL report.

Relevance/Comprehensiveness

At first glance, relevance and comprehensiveness might appear to be two different criteria. However, they are interconnected as a lack of comprehensiveness is by definition a lack of relevant data. Hence they are examined here together as a single consideration.

Relevance/comprehensiveness is best conceived as a sliding scale to reflect how it is possible to provide data which is relevant, but does not succeed in fully providing the desired information. For example, PRTs provide data concerning the quantity and effect of toxic emissions, but often do not answer the real question many citizens have – whether or not they are at risk. Given how citizens may have trouble interpreting and acting upon this information, it may be up to governments, regulators and public interest groups to provide interpretations and suggest appropriate responses.

Naturally, a major issue concerning relevance/comprehensiveness is the scope of information sought. Decisions must be made concerning the quantitative measures and qualitative descriptions that will be sought. In addition, thresholds - the level of activity that may occur before reporting is required - must be set. Typically, thresholds are set so as to exempt certain entities, such as small businesses, from reporting requirements. Thresholds do create the risk of under-reporting and/or the release of reports which are useless because they do not identify reporting entities. Further, thresholds can lead to reporting entities who operate near the threshold level having to report one year but not another, which makes tracking performance difficult. One method reporting mechanisms may attempt to address the incompleteness of system level is by providing estimates as to the data that is not caught due to the threshold.

Several points must be remembered when assessing relevance/comprehensiveness. First, it may not be desirable for a single mechanism to contain every possible piece of relevant data, as that would lead to information overload and detract from its usability. It is quite possible that the ultimate regime involves several reporting mechanisms working alongside each other. Second, the contextual information needed for complete relevance and comprehensiveness may not be intuitively obvious. For example, those unfamiliar with environmental justice might not appreciate how important it is to have information connecting toxic emissions, demographics and compliance². The challenge of identifying all necessary contextual information is made even harder when one considers the possible ignorance concerning exactly what contextual information is necessary.

Timeliness

Timeliness is concerned with A) Frequency - how often reporting entities update their information; and B) Lag - the time difference between the occurrence of significant events and the time relevant information can be accessed.

Frequency is important to some users because it determines how and when they can respond to that information. For example, according to Environmental Defence current TRI information is

² Information on the relationship between toxic emissions and demographics is necessary in order to determine whether minority communities are bearing an uneven pollution load. Legal compliance information is needed to determine if regulators are selectively enforcing the law.

necessary for informing campaigns.³ Frequency can also be important because the release date of information can be an event which draws media attention. The importance of lag is that there are some issues for which the information's relevance decreases after an event. An example is political donations, where information is often less useful after an election than before.

Reliability

Reliability refers to the extent information can be taken at face value. Sometimes there is no precise measuring technique available and reliability suffers as an estimate, rather than a measurement, must be used. (An example would be groundwater reserves.) Even when good measuring technologies exist, calibration errors may still occur. Error caused by measuring techniques is not an easy problem to fix, given that the requisite knowledge to do so is often absent.

It is possible that reporting entities might doctor their reports in order to present a better result than they actually achieved. This might be done by omitting important information, or by using a favourable reporting method. Natan and Miller (1998) report that, in the context of pollution reporting, adopting an alternate estimation method can cause a 100% variation in the reported result. A more extreme possibility is that reporting entities may knowingly report false and misleading information. To a certain extent, the risk of illusionary changes may be mitigated by having mandatory audits of both the reports and the processes used to generate them. However, it is impossible to prevent outright dishonesty.

Studies such as de Marchi and Hamilton (2006) and Natan and Miller (1998) show that there is an element of unreliability regarding TRI information – something which does not appear to have prevented industry, government and civil society from making use of it. This suggests that a certain level of unreliability can be tolerated by users. It is likely, however, that as the level of unreliability increases, the information becomes increasingly unusable to particular users. For example, Howes (2001) suggests that the unreliability of Australian NPI data might preclude it from being used as evidence in court.

Usability/Accessibility

The less useable and accessible a mechanism is, the slimmer the chances that it will influence deliberation. In order to be usable and accessible, users must:

1. **Be aware that the system exists:** Ignorance concerning the existence of a reporting is an obvious hindrance to their use, although widespread non-awareness of their existence may be normal, considering Atlas' (2007) finding that even the TRI experienced low public awareness.
2. **Know how to locate and extract the desired information:** One way to help users locate and extract the necessary information is by designing the system to answer the questions users are likely have and/or providing data to assist in drawing conclusions. For example, Fairley *et*

³ This information is from a pre-prepared template emails. To get this email, select a facility and go to the box labelled 'Take Action' and select 'Email EPA'. Current 29/11/09

a/ (1998) notes that scorecard.org was designed to answer common sense questions such as: which pollutant is the worst, and has the situation improved? This same site takes TRI information and adds a toxicity weighting, so that people can compare the danger associated with particular emissions.

3. **Know what to do with any significant information:** The mechanism could provide suggestions concerning how to proceed if worrying data has been located. For example, Scorecard.org invites people to take action by: posting a message concerning a facility in its online forum; e-mailing the EPA; and sending a fax to facility management. A sample letter is provided to help people, as is a list of important questions to ask in order to determine whether a reported decrease in TRI chemicals is real or illusionary.
4. **Have access to the necessary technology:** People who do not have an internet connection may have difficulty accessing a CDR, but it is not necessarily impossible. Public libraries, community centres or regional environmental centres might provide online access. The agency responsible for a CDR might allow people to visit their offices to view information. Printed copies of requested data might be made available on request. Further, an agency might make a CDR available by posting it to people on CD-ROM or USB.
5. **Ease of system use:** Ensuring ease of system use may be harder for a CDR than a TBL report because the limits of technology play a greater role. For example, users of the Australian NPI can experience problems such as searches freezing, timing out, or not linking to the information that they want. (Lloyd-Smith, 2008).

3.2 Deliberative Capacity

In order for data from a reporting mechanism to lead to true accountability, it must be capable of influencing empowered spaces by causing them to explain and take responsibility for decisions. Obviously, reporting mechanisms cannot give users formal power over empowered spaces, but John Dryzek's discursive democracy, which has been refined over the course of several decades, provides a way for us to conceive how it might provide informal influence.

Dryzek (1996) shares the concerns of critical theorists that the very nature of capitalism constrains democratic reform. Not only must efforts to democratise a system contend with capital's wealth and political power, but also the state's need to prevent capital flight. However, he suggests that reform may be caused by altering the balance of discourses.

In Dryzek's later work, the term discourse refers to a worldview – a set of assumptions determining how people conceive an issue. Discourses refer not to a process as it does in, say, Habermasian theory (Mendonca, 2008), but rather to the understandings that are given to an issue. As an example, there have been – and still are - multiple discourses surrounding the concept of environment. Some discourses view the environment as an unending resource ripe for exploitation; others conceive of it as sacred and inhabited by ancestor spirits; whilst still others hold the environment to be a dangerous place populated by animals and savages. The existence of multiple discourses means that the same situation – and hence the appropriate response - can be viewed very differently.

Most issues can be understood in different ways, hence are associated with different discourses. Over time, the balance of discourses concerning an issue may change. A minority discourse might grow as it gains acceptance (e.g. the Earth revolves around that Sun and not vice versa). A once dominant discourse might shrink or even disappear (e.g. there is nothing wrong with slavery). Naturally, this process might span years, even decades or centuries. Even so, altering the balance can create real changes because this balance determines how the wider society conceives of a problem – how urgently the situation must be addressed; how it should be addressed; and indeed, whether the problem exists or not. Dryzek (2009c) observes that once a hole in the ozone layer was discovered, the balance of discourses concerning extent to which the ozone layer should be protected at the expense of economic interests shifted in favour of ozone protection. This shift led to an international agreement phasing out CFCs, thus demonstrating how altering the balance can create change. Any such potential of a reporting mechanism to cause change is a mixed blessing, however, as it can be deployed both to advance and impair the public interest.

Ideally a democratic system should promote authentic, inclusive and decisive deliberation of political issues. Such deliberation will maximise the chance of optimal viewpoints being held and decisions taken. The extent to which a democracy is capable of hosting authentic, inclusive and decisive deliberation is called deliberative capacity (Dryzek, 2009b).

Authenticity refers to degree to which discourses are presented in manner aimed to ‘induce reflection noncoercively, connect claims to more general principles, and exhibit reciprocity’ (Dryzek, 2009b, p. 1382). Participants may attempt to appeal to each other’s emotions using techniques such as rhetoric or story-telling, but the appeal must be non-coercive – i.e. it must not be intended to discourage people from presenting alternative points of view (e.g. branding people who support universal health-care as socialist). Further, the appeal must allow drawing a general point applicable to the issue at hand. Although permitting such appeals risks allowing emotional manipulation, Dryzek deems it necessary as: a) some points of view cannot be properly expressed as a rational argument; and b) rhetoric is often necessary when trying to communicate one’s point of view to those who subscribe to a different discourse.

The simple way to assess authenticity is to consider whether there are any obvious factors limiting it – e.g. some important participants have a reputation for manipulating others or refusal to consider the views of others. For those wanting a more robust measure, Dryzek (2009b) suggests the discourse quality index of Steiner *et al.* (2004).

Inclusiveness refers to the extent to which a political system (or element of a political system) permits the full range of discourses and interests to be represented. It is not necessary for the system to allow all *people* to be represented, as that would be too difficult, just for all interests and discourses to be represented (Dryzek and Niemeyer, 2008). Given that it is impossible for a researcher to be certain whether the entire universe of discourses is represented or not, the best that can be done to assess this consideration is to determine whether there are any obvious impediments to inclusiveness.

Decisiveness refers to the extent to which the deliberative process is ultimately capable of influencing collective outcomes. It is the difference between deliberation that leads to action and one which remains merely ‘words’. If one had sufficient resources and believed that responses

would be reliable, decisiveness might be assessed by surveying decision-makers about the factors that affect decision making.

Dryzek (2009b) does not know which concrete structures will best facilitate authentic, inclusive and consequential deliberation. Indeed, he doubts it is possible to suggest structures that are ideal for all democracies for all time. Instead, he suggests that the best way to assess deliberative capacity is to break a democracy down into five components and assess the quality of deliberation that occurs concerning those components.

Public space⁴ is defined by Dryzek (2009b, p. 1385) as any ‘deliberative space (or spaces) with few restrictions on who can participate and with few legal restrictions on what participants can say, thereby featuring a diversity of viewpoints.’ A public space may be associated with any area, forum or median where citizens can discuss an issue ranging from newspapers, citizen forums or even casual discussion at the local ‘pub’.

Empowered space is any deliberative space ‘where authoritative collective outcomes are generated’ (Dryzek, 2009c, p. 9) and may be associated with legislatures, courts, regulators, corporate stakeholder forums or even boards of directors. Empowered spaces need not necessarily have formal political powers – just sufficient influence such that decisions made in that space affect collective outcomes.

Transmission refers to any mechanism and/or techniques actors in the public space use in an attempt to influence the decisions made by actors in the empowered space. We suggest conceiving of transmission as a combination of techniques and mechanisms. Techniques refer to the method by which discourses are expressed, examples being rhetoric, bargaining, reasoned argument, testimony or character-assassination. Mechanisms are the media used to transmit the message, such as written letters, political campaigns, protest marches or oral communication.

Stephan (2002) provides four techniques by which a reporting mechanism might influence the balance of discourses. First, data might **reduce information asymmetry** – i.e. allow stakeholders, possibly backed by the threat of adverse media attention and/or lawsuits, to negotiate from a more equitable bargaining position. Second, information might **shock/shame** actors by revealing that the situation is worse than they expected. Regulators may impose new restrictions, citizen groups may draw unwanted attention to the organisation, or organisation itself might be shamed into proactively fixing the problem. Third, information might **facilitate comparisons** which lead people to perceive (rightly or not) an unfair situation. For example, communities might resent being exposed to a relatively high level of pollution. Finally, data might have an **agenda-setting** role. Disclosure programs might highlight the importance with which the government regards the issue, which causes citizens to also be concerned. Further, the continual release of information serves to periodically remind the public about the issue’s importance.

⁴ The term ‘public space’ should not be confused with the term ‘public sphere’. Although Dryzek never states the difference between these terms it appears from Dryzek (2000, Chapter 4) that a public sphere always refers to discursive activity that occurs outside of the state whilst a public space involves discursive activity that may or may not involve the state.

Dryzek (2009c, p. 9) defines the fourth element - **accountability** - as occurring when the 'empowered space answers to deliberative space for actions.' For our purposes, this component is assessed by determining the effectiveness of mechanisms designed to create accountability relationships. Much, though not all, of this consideration is already covered within the reporting mechanism.

Meta-deliberation refers to the extent to which the system facilitates engaging in an authentic deliberation about the rules and arrangement of the deliberative system itself. Meta-deliberative spaces may be found in connection to citizen assemblies formed to consider potential changes to the electoral system. Thompson (2008a) notes that even though such citizen forums do not directly deliberate upon the deliberative system, they may well affect it. This consideration can be assessed by evaluating the authenticity of meta-deliberative elements.

A hindrance to deliberation affecting one component may enhance deliberation in another and vice versa (Dryzek, 2009b). For example, excluding actors from representation in the state is detrimental to deliberation in the empowered space, but may enhance deliberation in the public space by giving those actors greater incentive to communicate with the public. In the next section, the framework is applied to the political finance CDR used in the Australian state of NSW.

4.0 The NSW Political Finance Regime

This section uses the framework derived from Dryzek's work to assess how NSW's political donation database contributes to accountability. The database analysed here does not have an official name, so it is referred to as the NSW political finance database (NSWPFDB). The NSWPFDB is maintained by a state regulator known as the Election Funding Authority (EFA). As it will be seen, this database is a regime that had a slight potential to enhance accountability, but mostly failed to live up to that potential.

The disclosure of political donations in NSW began with the passing of *Election Funding Act 1981* by the Wran Labor Government. This Act was responsible for the introduction of public funding into NSW, establishing the EFA and for legally requiring candidates to lodge declarations of donations received and expenditures undertaken. Subsequent legislative changes (1) reduced the disclosure threshold; (2) imposed disclosure requirements on donors at fundraisers and third parties; and (3) prohibited anonymous donations exceeding certain thresholds (Callinan, 2001).

In June 2007, the NSW Parliament established the Select Committee on Electoral and Political Party Funding (SCEPPF) to 'inquire into and report on the funding of, and disclosure of donations to, political parties, and candidates' (SCEPPF, 2008a, p. iv). The full terms of reference appear in Appendix A. In discussing the context of the Inquiry (SCEPPF, 2008a, Chapter 2) SCEPPF does not list any specific event as being the cause of its creation, although it notes how calls for reform were fuelled by the Wollongong and Port Macquarie-Hastings scandal⁵ which occurred whilst the Inquiry was being conducted.

⁵ The Wollongong 'sex for development' scandal was caused by the discovery that town planner Beth Morgan used her position to gain approval for a development application that did not comply with the relevant standard. This was made all the scandalous due to the fact that the application was lodged by her lover, who had also given her valuable gifts during the development approval process. The Port Macquarie-Hastings

The reason NSWPF was chosen for this analysis is that the SCEPPF Inquiry generated a comprehensive data source. The inquiry received a total of 189 submissions from the full range of stakeholders, including politicians, public interest groups, EFA staff, industry representatives and private citizens. Some of the more important stakeholders were even interviewed by SCEPPF and all participants were given the opportunity to speak at a public forum. As a result, the SCEPPF inquiry presented an opportunity to assess a CDR after ascertaining the viewpoints of an array of stakeholders. One limitation of this data source is that submissions constitute, on average, negative commentary by individuals or institutions as opposed to those who are satisfied with the system. However, this limitation does imply that problems which have been identified in other disclosure regimes but are not mentioned in these submissions are unlikely to be of much concern. We begin the analysis by outlining the NSWPF rules.

4.1 NSWPF Rules

The NSWPF regime requires candidates, political parties and groups of candidates to report to the EFA their electoral expenditures as well as any monetary and in-kind donations they have received. Donors must also report their donations and electoral expenses. These forms are available in an online searchable database. Those parties who are also registered to contest Federal elections – and their donors – are subject to Federal disclosure law, which requires annual reporting to the Australian Electoral Commission (AEC), which has different rules. Thomsson (SCEPPF, 2008e, p. 38) notes that although there is overlap between the Federal and State regimes, it is worthwhile having both because:

we could have the situation of government being formed Federally that has control in the lower House and the upper House and they could again raise the disclosure threshold so high that it would hide most of the money.

The NSWPF has changed since the SCEPPF's Inquiry. The disclosure period has been reduced from every four years⁶ to every six months; the EFA's website now contains an online searchable database rather than a collection of PDF files; and record-keeping requirements have been tightened so as to create a superior audit trail.

Further, the donation reporting threshold rules have changed. Previously, parties, groups, candidates and elected members/councillors were required to disclose the total number of donations as well as the value of each and the date received. They were also required to disclose the names and addresses of donors whose total contributions during the election period exceeded \$200 for a candidate or \$1500 for a party or group. Donors were not subjected to any disclosure requirements unless their aggregated donations during an electoral period exceeded \$1500, at

scandal occurred because the cost of a community centre was tens of millions higher than was anticipated. (This particular scandal have had more to do with incompetence than corruption.)

⁶ The reason for this 4 year period is that declarations were intended to cover the entire election period and a month either side. The disclosure period began 31 days after the previous election and ended 30 days after the following election.

which point they had to disclose their name and address, the donation date, donation value and recipient.

The reporting rules for all parties, groups and candidates has since been changed such that donor name and address must only be declared for those who, during a single financial year contribute at least \$1000 to a party, candidate, elected member, council or another donor. The total number, aggregate value and date of donations below \$1000 must still be reported. Additionally, donors must file a return to the EFA if during a financial year they contribute \$1000 or more to a party/group/candidate/elected member/councillor and/or incur electoral expense of \$1000 or more.

An important clarification that must be made is that the terms 'candidate' and 'group of candidates' have specific definitions and give rise to disclosure obligations different to those experienced by 'elected members' and 'political parties'. A candidate is anyone who is registered to contest an election. Those candidates who win become elected members and must make disclosure under the rules for elected members, until they register to contest the next election at which point they disclose again under the candidate rules and the process repeats. Similarly, political parties disclose under the political parties rules, except during the periods where they are registered to contest elections, in which case they follow the rules for groups of candidates. The difference between candidate/group and elected member/political party disclosure is this: the former covers disclose donation and expenditure information dating back to 30 days since the last election (or dating back 12 months if they did not contest the last election) whilst the latter only covers the six month period since the last declaration. In this paper, the term candidate is used as it is in the political finance literature – as a term referring both to elected politicians and those seeking election.

4.2 Method

As the transcripts of all stakeholder interviews and public forum speeches, along with the final report and all but three submissions are available online, the research method adopted was content analysis. Krippendorff (2004, p. 20) defines content analysis as 'a research technique for making replicable and valid inferences from texts (or other meaningful matter) to the contexts of their use.' As Singleton and Straights (2005, p. 371) observes, 'the basic idea of content analysis is to reduce the total content of a communication... to a set of categories that represent some characteristic of research interest'. The objectivity of a content analysis is determined by the degree to which these categories are comprehensive, exhaustive, mutually exclusive, independent and applied using rigorous and replicable procedures (Scott, 1990).

Typically, data reduction occurs by breaking the text(s) into sections called coding units and then assigning codes to each coding unit to indicate its importance (or complete lack thereof) to the research project. By way of example, in this project each of the 189 submissions made to SCEPPF was a separate coding unit. Coding these submissions permitted summarising all the submissions in a table which listed every submission and which element of the framework, if any, they commented upon. This had the effect of turning a large data source into a more manageable one.

The content analysis process began by developing the framework which would outline the coding categories that would be applied to coding units. This framework – which underwent refinement

throughout the course of the project - was initially created by going through the SCEPPF transcripts and identifying issues raised by the participants. As we were attempting to create a framework that could also be applied to non-political finance CDRs, we also read literature relating to environmental databases.

This was followed by a pilot study which involved coding the transcripts and several submissions using NVivo. These transcripts and submissions were read and any portion of these texts which related to any element of the accountability framework was marked using NVivo's coding feature. One notable realisation which emerged from the pilot study is that it was redundant to have both relevance and comprehensiveness as coding categories as data which was coded into one category also went into the other. This is why relevance/comprehensiveness is a single category. Both the framework and coding category underwent further refinement when it was decided to adopt a Dryzekian viewpoint.

Each submission was coded and summarised in a table generated using Microsoft Word, as shown in Screenshot 1 in Appendix B. A spreadsheet was then used to count the number of submissions which fell into each coding category as shown in Screenshots 2 in Appendix B. The coding categories are as follows:

- A. Whether disclosure was mentioned.
- B. Recommendations concerning threshold
- C. Comprehensiveness/relevance
- D. Timeliness
- E. Reliability
- F. Whether there was any suggestion that disclosure of corporate donations be required in annual or TBL reports.

A summary table of the coded transcripts appears in Table 2. Each of the 53 submissions which mentioned disclosure underwent a second content analysis. This time information – which is summarized in Table 3 - was sought regarding deliberative capacity and the coding categories were:

- 1. Whether or not the submission had anything relating to deliberative capacity.
- 2. Accountability pathways – i.e. whether there are any comments concerning information asymmetry reduction, shock/shame, comparison facilitation or agenda-setting - were mentioned.
- 3. Public space
- 4. Empowered space
- 5. Transmission
- 6. Accountability

7. Meta-deliberation

8. Decisiveness

It was decided to code the interview and public forum transcripts and some of the more detailed submissions using NVivo as it is better suited to storing and retrieving large quantities of data. As Screenshot 3 shows, a category was created for each stakeholder interest group which may have offered insights into political finance disclosure. These categories are: academic, business, EFA, political parties and candidates, public interest groups, unions or citizens/association unknown. For each interest group category, we created a series of sub-categories that reflected the accountability framework. These subcategories were as follows:

1. **Reporting mechanism sub-categories:** accountability pathways, representational feasibility, comprehensiveness/relevance, reliability, timeliness and usability/accessibility.
2. **Deliberative Capacity:** public space, empowered space, transmission, meta-deliberation and decisiveness.

The above coding categories differ slightly from the Dryzek theoretical framework due to the results of refinements that were made during course of the project. 'Accountability pathways' have since been subsumed in *transmission*. 'Deliberative capacity' does not contain a category for *accountability* because it was originally believed that anything that would fall into this category would be caught by the reporting mechanism categories.

At the time of writing, 130 of the 189 submissions were coded (see Table 2). A further 2 submissions were not available online. We coded submissions from an array of stakeholders, including:

Political Parties: Liberal, Labor, National, Greens and Shooters.

Public interest groups: Greens Political Donations Research Project, Australian Centre for Democracy and Justice (ACDJ) and Public Interest Advocacy Centre (PIAC), and the Cancer Council.

Regulators: The EFA

Business Urban Taskforce Australia and Property Council of NSW.

Private Citizens Jo Holder, Eric Jones and Geoff Wall who sent in particularly illuminating submission.

Further, we coded all SCEPPF Inquiry interview transcripts and the public forum. The names of these people and the stakeholder groups they are associated with are listed in Appendix B. This coded material represents the opinions of a diverse array of stakeholders.

4.3 Assessment of Reporting Mechanism

Representational Feasibility

There is little reason to believe that representational feasibility poses a problem, as political donation information can usually be expressed using numbers and short sentences capable of fitting inside database fields. Indeed, an online database would appear to be an excellent presentation format as it would permit users to take advantage of searching and sorting functions to assist analysis – a point which was even explicitly made by the Greens (2008), the EFA (SCEPPF, 2008c, p. 5) and Wall (2008). The Greens (2008, p. 5) argue that:

The current level of web technology should make it easy and affordable for the NSW EFA to both allow for electronic lodgement of returns via the internet, and to display all the donations data stored in its database in a user friendly, fully searchable website. People should be able to view donations by donor name, donor industry, year, electorate, candidate, party or amount. The Greens democracy4sale.org website has provided this service to the public for the past four years.

Relevance/Comprehensiveness

Thirty-four (34) submissions contained substantive comments concerning comprehensiveness/relevance. Six recommended having a full disclosure system that revealed all donations, regardless how small. Another six referred to the need to close loopholes that allow reporting entities to avoid transparency, for example by preventing the use of front companies and state electoral councils to hide the source of electoral funding. A further ten stated that electoral income and expenditure needed to be disclosed. None of the coded submissions suggested that organisations be required to disclose their political donations in their annual or TBL reports.

Stakeholders identified other problems. First, corporate donors are not required to identify the nature of their business, which hinders assessing their interest in politics (The Greens, 2008). Hughes (2008), however, argues that this is not possible as ‘a corporations’ sole objective may be to hold shares in other companies, or the motivation behind a political donation may be agreement on behalf of the beneficial owner(s) or some directors with a party’s social values.’

The second problem is that the wording of the legislation governing the NSW PFD results in it capturing donations not just for state and local elections, but also Federal ones. The National Party (2009) suggested eliminating this redundancy by altering the NSW legislation so that it does not require reporting of federal donations; whilst the Greens (2008) recommend keeping the requirement that captures federal donations, but making clear whether the donation was for a local, state or federal election.

A third issue is that some stakeholders argued that disclosure thresholds were too low (ACDJ, 2008; Thompson, 2009), although others not only disagreed, but suggested that the thresholds needed increasing (Jones, 2008). Of the 11 submissions which contained substantive comments concerning threshold; 6 recommended requiring all donations to be disclosed; 4 recommended thresholds between \$200 and \$2000; and one recommended setting the threshold to a level which would reveal the source of 80% of total donation income.

The fourth problem is that disclosure returns can be very complex, with the Christian Democratic Party (2008, p. 1) stating that ‘if ever there was a disincentive to become involved in standing as a

candidate, it is the onerous requirements of the candidate to provide all receipts and all expenses, and all sources of income and in kind to the EFA.’

A fifth issue is that this regime does not require donor companies to specify which business they are in and that determining this information can be quite problematic. Thompson (2008b) states that:

Personally I have worked for hours attempting to find information on many companies, and often have been unsuccessful even after paying for ASIC recommended brokers for information.

... Even senior Sydney Morning Herald journalists have unsuccessfully attempted to discover the nature of work for some of these companies or organisations. (Thompson, 2008b, p. 9)⁷

However, the Greens themselves have a database at democracy4sale.org which takes NSWEPD data and combines it with information concerning the nature of business conducted by organisational donors. Therefore, whilst the database maintained by the EFA fails to provide this information, the regime as whole does.

A sixth issue concerned disclosure of fundraisers. Stakeholders argued that disclosure concerning fundraisers could be improved by requiring disclosure of: the identity of people who attended the event (SCEPPF, 2008d, p. 40); the donors of auction items (SCEPPF, 2008d, p. 40); and the identities of those who purchased auction items (ACDJ, 2008; Thompson, 2008b).

The biggest relevance/comprehensiveness problem is if donors send money to a party’s state branch – even if it is earmarked to go to a specific candidate - then disclosure is made by the party and not the candidate (Thompson, 2009). This makes it harder to keep candidates accountable. Thompson (2009, pp. 1 & 2) illustrates the situation:

The Greens Democracy4Sale research team has checked many of the Liberal groups in NSW and only found nil returns from all inspected. It appears all Liberal donations were funnelled through the Liberal Party head office, and all campaign expenses were paid by the Party’s head office...

However, it appears the Sydney Liberals group did receive contributions. In an email sent to a number of people and me (as a member of the Darlinghurst Residents Action Group and 2011 Residents Association), Cr Mallard reported that “our friends” have donated drinks and food at Giovanni’s at the Toxteth Hotel in Glebe... He also stated that three members of his team had raised “much needed funds” at a fundraiser at the Zilver restaurant in September 2008.

I have searched returns [from] a sample of donor forms from the approximately 2000 submitted to the NSW EFA and some donors claim to have contributed to various Liberal Party local government campaigns for the 2008 election.

⁷ This comment was said prior to EFA introducing the requirement that companies disclose their ABN, so it is possible that discovering a company’s business has since become easier.

The lobbyist and public relations firm John Connolly & Partners contributed \$1000 on 12/9/08 to “The 100 Friends of Shane (sic) Mallard Sydney Liberal Action Committee”

All donations of \$1000 or above should be reported to the NSW EFA, yet the Sydney Liberal group did not report this donation. It may have been reported to the NSW EFA by the NSW Liberal Party, but this is unclear.

Timeliness

Several stakeholders, including Kelly (SCEPPF, 2008c, p. 42), Jones (2008) and Holder (2008) have suggested increasing the frequency of disclosure during election periods so that as much information as possible is available prior to the election. The Greens (2008, p. 5) argue that:

There should be prompt and transparent disclosure of all donations on a public website maintained by the Election Funding Authority. All contributions to a party, group or candidate must be available to the public before an election. We have a right to know who is bankrolling parties, groups and candidates before we vote.

The Liberal, Greens (2008) and Shooters Parties (2008) have all recommended an annual disclosure period in order to bring NSW requirements in line with Federal requirements. However, they made this recommendation before the disclosure period was bi-annual and it is not known whether they still support annual disclosure. Of the 29 submissions which contain substantive comments concerning timeliness, 10 recommend monthly disclosure, 6 recommend quarterly disclosure and then additional disclosure one month before an election, and 5 recommend that the disclosure be available prior to an election.

Reliability

Eight submissions contained comments regarding reliability. Seven of them observed a need for reports to be audited (which the NSWPF requires) whilst one noted how funds can be used to hide the source of donations.

Three major reliability issues were noted by witnesses who appeared in front of both SCEPPF and JSCEM. First, the EFA noted donor contributions to fundraisers are GST-inclusive whilst parties and candidates report them GST-exclusive (SCEPPF, 2008c, p. 11). Second, Thompson noted problems with the accuracy of reported in-kind donations (SCEPPF, 2008e, p. 38). Thirdly, several stakeholders, including Cr Cassidy (JSCEM, 2009, p. 8) and the Our Sustainable Future Party (JSCEM, 2009, p. 47) argued that requiring bi-annual audits is prohibitively expensive for small parties and independents, who often have no new donations to report anyway. They argued that this attempt to increase the reliability of political finance reporting risks undermining democracy by driving out smaller parties.

Usability and Accessibility

From our personal experience, the NSWEPD scores moderately here. The biggest usability issue with the NSWEPD is that it requires the users to know beforehand what information they want, or else be willing to wade through possibly thousands of declaration records to find something of interest.

Understanding how to correctly use the database can take several minutes; however, the database does contain useful suggestion boxes which are invaluable when one does not know the full name of the organisation/council/party affiliation one is looking for. As an example, if one is looking for donations by Macquarie Bank, typing in Macquarie causes the suggestion box to suggest typing in 'Macquarie Group Limited' or 'Macquarie Group Services Australia'. Thus, the NSWEPD appears to meet Thompson's (2008b, p. 8) call for a web site that is 'set up so that a person can type the name of a company, union, other organisation or individual into a search function and access all donations made by that entity to all parties and candidates'.

4.4 Assessment of Deliberative Capacity

Assessing the ability of the NSWPF to enhance accountability requires more than assessing the quality of a reporting mechanism. Investigating the potential of the NSWPF to enhance accountability by influencing the balance of discourses requires exploring NSW's capacity to host *authentic, inclusive* and *decisive* deliberation concerning political donations. A lack of *inclusiveness* or *authenticity* may lead to the creation of a sub-optimal accountability regime⁸ whilst a lack of *decisiveness* hinders accountability as talk is never turned into action.

On Dryzek's (2009c) account, the major elements of deliberative capacity are *public spaces, empowered spaces, transmission, accountability* and *meta-deliberation*. As the purpose of this section is to provide insight into how deliberative capacity (or lack thereof) influences accountability rather than provide a direct assessment of deliberative capacity, we will focus on how the NSWPF can influence deliberation in the *public and empowered spaces*. It is more constructive to only describe the other elements of deliberative capacity – *transmission, accountability* and *meta-deliberation* to the extent that they influence the spaces. The fact that Dryzek (2009b; 2009c; 2009a) himself has provided three different accounts of the elements of deliberative capacity demonstrates that the elements can be modified as necessary.

Public Space

Political finance is an issue that is conducive to being discussed in *public spaces* as it is both interesting and easy to understand, hence political finance is frequently mentioned in the media. This is in stark contrast to issues such as the finer points of complex financial instruments, which is not conducive to deliberation due to the difficulty people would have understanding the topic (Dryzek, 2009c). Further, there are numerous *transmission* mechanisms capable of transmitting public opinions concerning political finance, such as media reports or political speeches.

Theoretically, voters might use the NSWPF to learn about the interests financing particular candidates and parties and to gain insight concerning the political positions parties/candidates are

⁸ A lack of inclusiveness and/or authenticity may lead to the creation of a sub-optimal accountability regime by leading to the failure to consider important points when creating the regime. For example, a government may attempt to strengthen political finance accountability by requiring that all party finances undergo regular auditing, ignorant that new parties cannot afford the price.

likely to hold (Hourigan, 2006). This might influence discourse surrounding particularly issues. Of the coded 63 submissions which mentioned disclosure, 14 of them contained comments such as disclosure should 'allow scrutiny ('keep the bastards honest') by groups, such as the media and community organisations, to highlight those conflicts of interest that will result in sub-optimal outcomes for the community' (Reynolds, 2008, p. 2) and help the media and public 'be rapidly informed of trends and of any transgressions' (Paul, 2008, p. 2; Poyzer and Poyzer, 2008, p. 2; Ryan and Ryan, 2008, p. 3; Save Our Suburbs, 2008, p. 2; Willetts and Willetts, 2008, p. 2; Wyatt and Wyatt, 2008, p. 2; Wyldeck, 2008, p. 2). These comments suggest that disclosure is perceived to have a role in reducing information asymmetry and show that there is at least some interest in the data being available.

The NSWPF is likely only to be used by a minority of voters as there are other factors more likely to determine voting choice, such as personal ideology and party policies. Even so, the Member for Dubbo, Dawn Fardell, argued: 'it may not worry too many people in the city areas but certainly where I come from in rural areas people like to know who is who' (SCEPF, 2008e, p. 31). This comment suggests that discussion of, and interest in, political finance may differ between areas.

Whilst there is certainly a lot of discussion, there is likely less true deliberation. The Greens' democracy4sale website contains an archive of newspaper stories relating to political finance and even though they permit people to comment on the articles, very few do so. This site discusses the problems associated with political donations, but does not mention the possible problems outlined by authors such as Smith (2003a; 2007) or Johnson (2005) about reform. Newspaper articles frequently carry stories of donation scandals, but they usually do not discuss the benefits and limitations of reform. Sometimes, the stories may not even make the news. McClimont (SCEPF, 2008b) notes that:

in rural and regional areas there is limited media scrutiny of relationships between local government candidates and real estate developer interests. This problem is due in large part to regional newspapers and the commercial electronic media relying heavily on real estate and developer advertising for revenue. Understandably, they are reluctant to do anything that may affect that revenue (SCEPF2008b, p. 12).

Even when troubling relationships are discovered and printed, very little may happen. The parties may simply deny that anything inappropriate occurred and then the scandal forgotten. Nevertheless, the desire to avoid the damage that a scandal could do to one's reputation may affect cause donors to avoid contributing excessive amounts and politicians to be more wary about accepting abnormally large contributions. Therefore, the mere presence of the NSWPF may lead to more sensible donation behaviour, thereby achieving one of the objectives of increased accountability.

Ultimately, the NSWPF may have the potential to increase accountability by causing the creation of discourse which embarrasses members of empowered spaces when there is perceived to be a suspicious link between a donation and beneficial decision. (In other words, the NSWPF may increase accountability by creating the potential for a scandal). The contestation of discourse regarding political donations therefore has the potential to be *decisive*. However, this contestation is more likely to involve discussion than deliberation, and therefore lacks *inclusiveness* and

authenticity. Fortunately, it is difficult to conceive of this lack of inclusiveness and authenticity having a significantly detrimental effect on accountability.

Empowered Space

The main *empowered spaces* that are of concern for this issue are NSW Parliament and the donors. Parliament certainly discusses the issue of political donations, as demonstrated by the occurrence of the SCEPPF Inquiry and the Joint Standing Committee on Electoral Matters' (JSCEM) subsequent inquiry into public funding of local elections. However, we do not know how authentic the deliberation concerning this issue is. We do not know if Parliamentarians are willing to consider and reflect upon the different viewpoints when making decisions on the issue or if they are primarily concerned with partisan interests. Of the 53 submissions which commented on disclosure, 23 expressed not just the suspicion that political donations compromised the political decision-making process, but the firm belief that it did. We can say however that there is a conflict of interest here, so there is a risk that the authenticity of deliberation is quite limited. Indeed, some participants, such as Pederson (SCEPPF, 2008b, p. 19), questioned whether the SCEPPF Committee would engage in authentic deliberation given that 'the most active spokesperson in Parliament on this issue' [Lee Rhiannon] was denied a place on the Committee.

We do not have the information to make a judgement concerning how inclusive Parliament is in its deliberations. However, the SCEPPF Inquiry shows that Parliamentary Inquiries into issues have the potential to be quite inclusive. This particular inquiry received submissions across a wide spectrum of stakeholders and held a public forum for members of the public who wanted to speak but were not called as witnesses. Further, it produced a comprehensive report that thoroughly examined the advantages and disadvantages of the different reform options. It is quite possible that individual people who wanted to provide input into the process were not able to do so – and some, such as Harrison (SCEPPF, 2008b, p. 14) were disappointed that they only were allowed 5 minutes to speak. However, given the thoroughness of the report, it seems quite probable that all important discourses were represented in the process.⁹

Parliament may also provide a venue for *meta-deliberation* to occur through Parliamentary Inquiries that investigate the conduct of elections, such as those conducted by JSCEM or by SCEPPF. Such inquiries are productive in that submissions from anyone are recorded and considered. Furthermore, committees conducting these inquiries typically call select stakeholders as witnesses and discuss their views further, sometimes asking for their response to points raised by other stakeholders.

Some submissions display a concern about the Government's willingness to engage in reform, which, if merited, represent a concern about *decisiveness*. Wyldeck (2008, p. 2), for example, stated that:

⁹ Whilst SCEPPF's final report cites people who spoke at the public forum, it only cites one submission that is not from a person who is a famous academic, represents an NGO, is a political candidate or is otherwise special in some way. However, this provides no reason to believe that important viewpoints have been left out as the number of submissions cited was quite large and likely covers most, if not all, points made by 'ordinary' people.

I hope something good may come out of this inquiry, but as it must be the hundred thousandth inquiry already set up by this government to delay action, and to quietly sweep people's concerns under the carpet, I have no faith or hope, and I am probably wasting my time even writing this letter.

A second *empowered space* is the donor organisations themselves. The fact that the SCEPPF Inquiry received submissions from bodies such as Urban Taskforce Australia and the Property Council of NSW suggests that there is at least some level of discussion in the business world about political finance, although it is difficult to imagine this leading to proper deliberation. When members of the same donor organisation discuss their corporate contribution policy, such discussion may be authentic in that members have little reason to lie to each other, but it is unlikely to be inclusive as the corporate view will be the one considered.

Disclosure might increase accountability by creating the risk that startling/shameful donation relationships will come to light if they are entered into. This may cause donors to be more cautious about donating money which could later be seen as a bribe; and for politicians to be more selective about the people from whom they accept money (Nassmacher, 2003b). Thus, the fear of creating appearance of corruption may in itself be sufficient to deter corruption (Wilcox, 2005). Shock or shame is especially likely in situations where a single donor or interest group provides a significant portion of a campaign's funding.

Ultimately, a Dryzekian analysis illustrates that data from the NSWPFDF is unlikely to exert a large effect on the balance of discourse. NSW's capacity to deliberate on corporate political donations is neither especially high, nor especially low. The system is not geared for deliberation to flourish, but nor does it conspire to hinder it. Corporate political finance is discussed in the public and empowered spaces and there are transmission and accountability mechanisms. However, whilst there is plenty of discussion, there is little deliberation, that is, attempts to reflect on the different viewpoints to arrive at an informed decision. The discussion that does take place usually involves scandals or exhortations to ban corporate donations with little attempt to reflect upon the issues and devise a working solution. Data from the NSWPFDF may contribute to accountability by making people aware of concerning relationships, which reduces information asymmetry, engenders a 'shock/shame' reaction, which in turn has an agenda-setting effect. However, deliberative capacity is not especially conducive in achieving a type of accountability where decision-makers and citizens reflect on issues and attempt to devise a working solution to these issues.

4.5 Conclusions of NSWPFDF

While it might be argued that elections should be publicly funded (an issue which JSCEM is currently investigating), the NSW political finance regime has some potential to increase accountability by creating a public record of donor-receiver relationships and possibly deterring corruption. However the fact that disclosure suffers from a lack of timeliness and comprehensiveness/relevance prevents this potential from being fully realised. Further hindering accountability is the difficulty involved in accessing or using the data and the absence of any agency performing an investigatory function.

In terms of the discussion regarding the relative merits of CDRs and TBL reports, political donations appear to be an issue well suited to being disclosed in a CDR. The submissions suggest database

search functions are extremely useful, allowing people to search donation records by party, donor, donor industry, donation amount, or electorate. Further, database tools can enable users to determine the percentage of a candidate/party's total funds which come from a single donor/industry.

5.0 Summary and Conclusions

This paper began with the idea that, as papers such as Gray (2010) contend, TBL reports present information at the organisational level, which in many cases is not conducive to assessing sustainability. Even if it were possible to address concerns about voluntary corporate disclosure with regards to its comprehensiveness (Deegan and Rankin, 1996; Adams, 2004); credibility (Danastas and Gedenne, 2006); and sufficiency (Tilt, 1994; Danastas and Gedenne, 2006), TBL reports will always be limited in their ability to present systems-level data. One way to overcome this problem would be if TBL reports were to work alongside CDRs which are capable of presenting this level of data. This is not to say that TBL reports have no role in accountability – indeed there are some issues for which an organisational view is highly useful – but this limitation implies that social accounting research should be conducted into ways of overcoming the problem.

After describing CDRs and the state of the prior literature, we used Dryzek's discursive democracy to derive a framework for assessing the benefits and limitations of using CDRs as accountability mechanisms. Gray (2005, p. 7) argues that organisational accounts are 'absolutely and definitionally central to what it is to have a just democracy'. Dryzek's discursive democracy provides social accounting with a way to view and conceptualise the elements that are needed to turn organisational accounts concerning political donations into action. The elements of deliberative capacity - public space, empowered space, transmission, accountability and meta-deliberation – affect the extent to which data from a reporting mechanism can be expected to influence decision-making or simply be ignored. The main limitations with using Dryzek's discursive democracy are the difficulties involved in reliability assessing the component of deliberative capacity and determining what course of action should be taken.

The framework was then applied to the NSW political finance regime. The NSWPFDF suffers from several problems including: not all donation records being available before an election; possible links between donors and candidates not reported due to contributions – even those earmarked for specific candidates - being received by state branches; and the cost of bi-annual auditing being too expensive for smaller parties. Public and empowered spaces are neither particularly conducive, nor particularly detrimental to the deliberation of political donations. Discussion certainly occurs in both of these spaces, but much of it may not be true deliberation. The NSWPFDF is most likely to increase accountability by discouraging the donation of excessively large amounts by creating the possibility that the details about such a relationship will create a scandal if they do. There is little that the government can do to facilitate more deliberation – deepening deliberation will require people to want it. Overall, the NSWPFDF likely has some, albeit limited, potential to provide data that influence the balance of discourses.

None of the submissions that were coded advocated requiring organisations to report their political donations in annual or sustainability reports. This is surprising given that such calls have been made in the literature (Ramsay *et al.*, 2000; Dubs, 2005) and by practitioners (AMPCI Sustainable Funds,

2005). Indeed, political donations is deemed important enough to be a suggested disclosure (albeit non-core) in the Global Reporting Initiative. An annual or TBL report would not provide the searchability of a CDR, but it could list every donation made by an international organisation to any nation in the world. This would be useful for people wanting to assess a company's foreign political risk exposure (Sommer, 1975).

The analysis of the NSW political finance regime also yields one final consideration. Political finance is an issue for which organisational level data *is* highly relevant. However, there is still good reason to have the organisational data available in a publically-accessible database, namely to take advantage of database search functions and to identify donations by an entire industry. Future research should therefore determine whether there are others issues – even ones which are well suited to be presented in a TBL report – which may benefit from disclosure through a CDR.

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Table 1: Political Finance and Environmental Central Database Regimes in Australia, UK, US and Canada

CDR Type	Name and Details
Political finance database maintained by government agency	<ul style="list-style-type: none">- Australian Electoral Commission database- (US) Federal Election Commission database- Elections Canada database
Political finance database maintained by NGO	<ul style="list-style-type: none">- Green's Democracy4sale database- (US) Centre for Responsive Politics opensecrets.org
Pollutant Release and Transfer Register (PRTR) maintained by government	<ul style="list-style-type: none">- National Pollutant Inventory (Australia)- Toxics Release Inventory (US)- (UK) Pollutant Inventory- (Canada) National Pollutant Release Inventory
PRTR maintained by NGO	<ul style="list-style-type: none">- Scorecard.org's US database.
Carbon Database maintained by Government	<ul style="list-style-type: none">- Australia's Natural Greenhouse and Energy Reporting Register
Water Database Maintained by Government	<ul style="list-style-type: none">- Australian Water Resources Information System

Source: Authors compilation

Table 2: Summary of Coded Transcripts Concerning Reporting Mechanism

	Disclosure Mentioned?	Threshold Recommendation	Comprehensiveness	Timeliness	Reliability	Annual/TBL Report
Missing	2	2	2	2	2	2
No Mention or comments referred to local councils	77	119	94	100	122	130
Criteria commented upon but no specific recommendation given		0	2	1	1	0
Specific recommendation	53*	11	34	29	7	0
Total	130	130	130	130	130	130

*: For 'Disclosure Mentioned?' any mention of disclosure at all – no matter how trivial - was interpreted as a specific recommendation. The purpose of this section is to count the number of submissions which mention disclosure.

Table 3: Summary of Coded Transcripts Concerning Deliberative Capacity.

Coding Category	No Comment	Related or tangential point and seems relevant, but doesn't clearly fall into recommendation	Specific Comment	Total
Deliberative Capacity	23		30	53
Pathways	38	1	14	53
Public Space	51	1	1	53
Empowered Space	51	0	2	53
Transmission	52	0	1	53
Accountability	43	4	6	53
Meta-deliberation	45	1	7	53
Decisiveness	30	0	23	53

***: For 'Deliberative Capacity?' any mention of disclosure at all – no matter how trivial was interpreted as a specific recommendation.**

Appendix A: Select Committee on Electoral and Political Party Funding Terms of Reference

TERMS OF REFERENCE

1. That a select committee be appointed to inquire into and report on the funding of, and disclosure of donations to, political parties, and candidates in state and local government elections, and in particular:

(a) all matters associated with electoral funding and disclosure

(b) the advantages and disadvantages of banning all donations from corporations, unions and organisations to parties and candidates

(c) the advantages and disadvantages of introducing limits on expenditure in election campaigns

(d) the impact of political donations on the democratic process and

(e) any related matters.

2. That notwithstanding anything contained in the standing orders, the committee consist of six members of the Legislative Council of whom:

(a) two must be government members

(b) two must be opposition members, and

(c) two must be cross bench members.

3. That, notwithstanding anything contained in the standing orders, at any meeting of the committee, any four members of the committee will constitute a quorum.

4. That the committee report by the last sitting day in June 2008.

COMMITTEE MEMBERS

Revd the Hon Fred Nile MLC (*Chair*) (Christian Democratic Party)

The Hon Don Harwin MLC (*Deputy Chair*) (Liberal Party)

The Hon Robert Brown MLC (Shooters Party)

The Hon Amanda Fazio MLC (Australian Labor Party)

The Hon Jenny Gardiner MLC (The Nationals)

The Hon Mick Veitch MLC (Australian Labor Party)

Source: Select Committee on Electoral and Political Party Funding Final Report, Chapter 2

Appendix B: List of People Who Were Interviewed and/or Spoke at the Public Forum

- **Academics:** Marian Sawyer, Norm Kelly, Joo-Cheong Tham, Simon Longstaff
- **Local Council Representatives:** Genia McCaffery (North Sydney Mayor), Bruce Miller (Cowra Mayor), Ian Longbottom (Lane Cove Mayor), Judy Lambert (representing Mayor of Manly Council), Penny Holloway (North Sydney Council General Manager), Warren Welham (Wyong Shire Mayor), Neville Castle (Lithgow City Mayor), Paul Anderson (Lithgow Council General Manager), Greg Watson (Shoalhaven Mayor), Greg Piper (Lake Macquarie Mayor), Clover Moore (Sydney Lord Mayor), Robert Drew (Port Macquarie-Hastings Former Mayor).
- **Political party representatives and Independent candidates:** Dawn Fardell (Independent), Lee Rhiannon (The Greens), Barry O'Farrell (Liberal, NSW Opposition Leader), Martin Laverty (Liberal Interim State Director), Peter Draper (Independent), Greg Piper (Independent), Clover Moore (Independent), Paul Davey (National Party Vice Chairman), Karl Bitar (Australian Labor Party General Secretary).
- **Public interest group representatives:** Anita Tang (Cancer Council Health Strategies Director), Anne Jones (CEO, Action on Smoking and Health Australia), Robin Banks (CEO, Public Interest Advocacy Centre), Norman Thompson (Director, The Greens Political Donations Research Project).
- **EFA:** Colin Barry (EFA Chairperson), Trevor Follett (EFA Secretary).
- **Business:** Ken Morrison (NSW Executive Director, Property Council of Australia), Aaron Gadiel (Chief Executive, Urban Taskforce Australia).

Appendix C: Screenshots of Coding

Screenshot 1: Microsoft Word Table

Number	Notes	Disclosure Mentioned?	Threshold Recommendation	Comprehensiveness/relevance	Timeliness	Reliability	Annual Report
1 (3P)	Accordingly the local community, including the media, awaited the public release of the declaration of election funding reports from the State Electoral Office, only to find that \$43 000 of funding was not accounted for in terms of its source by group. The team exploited what I feel is an absolutely appalling loophole – that if a group/candidate has not finalised payment of campaign expenses within one month after the election, then the sources of that funding do not have to be declared until one month after the next election.	Yes	No	Close loophole where if a group/candidate has not finalised payment of campaign expenses within one month after the election, then the sources of that funding do not have to be declared until one month after the next election.		Expense statements should be audited.	No
2 (1P)	'In the case that donation of this kind is still allowed then the level of transparency should be improved. It should be declared to Election Funding Authority and posted on a web-page. The web-page should be updated regularly.'	Y	None	No comment	Generic request for regular update	Not mentioned	Not mentioned
3 (1P) Burwood Council	It is imperative that all funding of political parties is made in an open and transparent manner, with details made available via easily accessible means, including the internet.	Y	None	No comment	Not mentioned	Not mentioned	Not mentioned
4 (4P)	- P. 1: subcontract to the federal body AUSTRAC the task of collecting, correlating, analysing, and generating reports on financial transactions of political parties, supporters, associated foundations, charities, companies	No	No	No	No	No	No

Screenshot 2: Screenshot from Microsoft Excel

	A	B	C	D	E	F	G
	Submission Number	Disclosure Mentioned?	Threshold Recommendation	Comprehensiveness	Timeliness	Reliability	Annual Report
1	1 (3P)	yes	no	rec	rec	rec	no
2	2 (1P)	yes	no	no	com	no	no
3	3 (1P) Burwood Council	yes	no	no	no	no	no
4	4 (4P)	no	no	no	no	no	no
5	5 (3P) Fair Go	yes	no	com	no	com	no
6	6 (10P)	no	no	no	no	no	no
7	7 (1P)	no	no	no	no	no	no
8	8 (1P)	no	no	no	no	no	no
9	9 (1P)	no	no	no	no	no	no
10	10 (1P)	no	no	no	no	no	no
11	11 (1P)	no	no	no	no	no	no
12	12 (1P)	no	no	no	no	no	no
13	13 (1P)	yes	no	no	no	no	no
14	14 (1P)	no	no	no	no	no	no
15	15 (1P)	yes	no	no	no	no	no
16	16 (1P)	no	no	no	no	no	no
17	17 (1P)	no	no	no	no	no	no
18	18 (1P)	no	no	no	no	no	no
19	19 (1P)	no	no	no	no	no	no
20	20 (1P)	no	no	no	no	no	no
21	20 (1P)	no	no	no	no	no	no

Rec = Specific Recommendation

Com = Criteria commented upon but no specific recommendation given

Screenshot 3: NVivo Coding

Look for: Search In Find No

Nodes

- Free Nodes
- Tree Nodes
- Cases
- Relationships
- Matrices
- Search Folders
- All Nodes

Sources

- Nodes**
- Sets
- Queries
- Models
- Links
- Classifications
- Folders

Cases

Name	Sources	References
Academics	0	0
Business	0	0
Citizen or association unknown	0	0
Electoral Funding Authority	0	0
Lobbyists	0	0
Political parties and Candidates	0	0
Public Interest Group	0	0
Reporting Mechanism	3	4
Accountability Pathway	7	24
Relevance and Comprehensive	8	31
Reliability	4	7
Representational Feasibility	3	3
Timeliness	7	18
Usability & Accessibility	5	17
Deliberative Capacity	0	0
Decisiveness	2	3
Empowered Space	3	4
Meta-Deliberation	1	1
Public Space	3	3
Transmission	0	0
Spare	0	0