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Committee Secretary  
Economics and Governance Committee Parliament House  
George Street, Brisbane, Qld, 4000

**Submission on the *Electoral and Other Legislation (Accountability, Integrity and Other Matters) Bill 2019 (Bill)*.**

Dear Members,

Thank you for the opportunity to provide comment on the *Electoral and Other Legislation (Accountability, Integrity and Other Matters) Bill 2019 (Bill)*.

Based in Brisbane, the Queensland Conservation Council (QCC) is the state's peak non-government environment group. We are a non-profit incorporated association with no political affiliations.

Since 1969 our mission has been to protect the environment, wildlife and landscapes, conserve our precious natural resources and make Queensland governments, businesses and communities more sustainable.

We have a membership of sixty groups who we consult and coordinate with. Our members consist of local, regional, state and national environment organisations located throughout Queensland.

We achieve our goals by engaging with communities, advocating with governments and industries, and informing through media. We apply the latest scientific research to develop policies. We monitor progress and monitor the performance of governments, their programs, holding them accountable to their commitments and responsibilities to the environment.

In the past fifty years of advocacy we have achieved much working with our member groups, governments, industries, First Nations and local communities. From the World Heritage listings of Fraser Island, the Gondwana Rainforests, the Great Barrier Reef, the Wet Tropics and support for the Riversleigh World Heritage fossil site in north-west Queensland to the increased protected area estate and controls on broadscale tree clearing QCC. Our members have contributed greatly to the betterment of Queensland at international, national, state and local levels.

From the outset of this submission we must register our concerns about the consultation process imposed by the Government for comments on this Bill. QCC believes the tight timetable, commencing with the less than one hour departmental public briefing on 16 December 2019, to making submissions on both the Bill (9 January, 2020) and the Inquiry (20 January, 2020) are significant barriers to effective public participation that will cheapen the Committee's report due on 7 February, 2020. Given the intention that these amendments be enacted after the 2020 Queensland local government elections we fail to understand the haste at which this Committee requires comment on the proposed reforms. This unnecessarily rushed process is limiting proper scrutiny of the Bill that has far-reaching implications for democracy in Queensland.

Our comments to the Committee focus primarily on the proposed amendments relating to funding, expenditure and disclosure obligations. Generally, we hold grave concerns that the Bill will stifle the advocacy of small community groups and charities like ourselves, severely limit our fundraising potential and introduce onerous reporting measures resulting in an administrative quagmire. Finally, we recommend amendments to the Bill that address our concerns while offering an alternative method for achieving the policy objectives sought.

### **The Bill limits charities and not-for-profits advocacy**

The Bill applies a broad definition of electoral expenditure, encompassing expenditure on public communications for the dominant purpose of directly or indirectly influencing voting at an election. Such a broad definition will capture the regular expenditure of charities used towards participation in public policy debate, research, and public communications on contested policy questions in the lead up to an election.

QCC is apolitical and does not endorse or support individual candidates or political parties. In the lead up to local, state and federal elections QCC and our member groups have surveyed candidates and political parties on a range of environmental and conservation policy issues. Responses from political parties and candidates to these surveys are used to form the basis of information provided to the community for electors to consider in relation to key community environmental concerns. We believe this work serves an important public benefit by assisting voters to be more informed and to consider, debate and discuss issues which are important to them.

QCC also works with our member organisations on a number of environmental issues across the State. Our policy priority areas include ensuring Queensland's precious

National Parks and natural landscapes are adequately funded and protected, advocating for the protection of Queensland's endangered and threaten species like the Koala, protecting Queensland's pristine rivers and waterways, and advocating for better policies to protect the reef, among other issues<sup>[1]</sup>. We undertake all of our activities to ensure that our beautiful state is protected and preserved for the animals, plants, people, and future generations that depend on it.

All of the issues we work on require action by government, and frequently, policy change. Our role, and that of our member organisations, is to bring research, scientific evidence and community voices to the forefront of environmental policy decisions in Queensland. This Bill would likely capture our advocacy and that of our members for policy reform, even where we do not advocate for a particular party or candidate, or for voters to vote in a certain way.

Following is a scenario as to how the proposed definition of electoral expenditure and reporting requirements under this Bill may impact the ability of charities and small community groups to undertake their regular advocacy activities..

It is an election year, and the Liberal National Party of Queensland (LNP) has announced a program to replant native bush to protect koalas from extinction. The Australian Labor Party (ALP) has no equivalent policy.

A Queensland charity, the Koala Protectors, wants to put out a local newspaper advertisement supporting the announcement. The local newspaper is chosen because it is distributed in a key swing electorate where voters are known to care about koalas. The purpose of the advertisement is to celebrate the policy announcement and pressure the ALP to announce a similar policy. However, under the proposed legislation the dominant purpose of the advertisement could be interpreted as informing voters of the LNP's policy and thereby indirectly influencing votes in an election.

The newspaper advertisement will cost the Koala Protectors \$1,000. It registers with the Electoral Commission of Queensland (ECQ), appoints an agent and sets up a State campaign account for this purpose.

The Koala Protectors then consider how to raise money for the advertisement. It knows it cannot use donations they've received for their other operations, but unfortunately, because the announcement was unforeseen, the Koala Protectors had not started to raise political donations in advance. The Koala Protectors have to reach out to donors to raise the funds at short notice.

Karen is a loyal donor to the Koala Protectors, having donated \$5 a week to them for the last four years. The Koala Protectors ask Karen if it can use her next \$5 donation on the newspaper ad. She agrees to this and provides a donor statement.

However, the Koala Protectors quickly realises it will not be able to raise the

funds in time unless it solicits some bigger donations. It then reaches out to Kevin, who has never given to the Koala Protectors, but had expressed enthusiasm for its work at a donor function. Kevin agrees to donate the remaining \$995 to fund the advertisement and provides a donor statement.

The Koala Protectors deposits both donations in the State campaign account and pays for the advertisement using that account. It then turns its mind to how to disclose the donations to the ECQ.

Kevin's donation to the Koala Protectors over the last four years, at \$995, came under the disclosure threshold, so does not need to be disclosed. Karen's total donations over the past four years is \$1,040, and so, even though only \$5 of her total donation was used for the newspaper advertisement, her name and address must be provided to the ECQ and published on its website. Note that the donation coming from Karen will be shown as \$1,040, not \$5.

The Koala Protectors managed to pull off the advertisement this time, but would struggle to raise the funds to publish more advertisements, or to do anything more expensive. And if they relied not on small donors but on a handful of large annual grants, they would possibly not be able to raise funds to do any advertisements at all.

While this scenario involves a relatively low stakes advertisement in support of a policy, it is easy to see how the regular advocacy work of a group like the Koala Protectors could be impacted under this legislation. This example highlights both the difficulty of anticipating which issues may become issues during election times, as well as the difficulty in determining what does and does not count as electoral expenditure. Many groups, including QCC, may be prevented from speaking out on the issues that are most important to them and at the core of their work, if their public interest advocacy activities are erroneously captured as electoral expenditure.

### **A. The cap on donations**

The Bill limits philanthropic donations that can be used for public interest advocacy work that meets the definition of political expenditure to \$4,000 per donor, over a four year period.

Limits on donations to support electoral expenditure will limit charities' non-partisan issue-based advocacy in the run up to state elections. This aspect of the Bill undermines charities' and community groups' ability to stand up for the interests of everyday Queenslanders and the environment and to that extent undermines the public interest.

This Bill will make election campaigns more unequal by limiting the ability of charities and small community groups to participate in election time policy debate and to speak up for the interests of the communities we serve, or to protect the environment and the people, plants and animals that depend upon it. In the meantime, corporate campaigns

will be able to continue virtually unimpeded.

The Bill is discriminatory in its application because it only caps and requires disclosure of donations. Unlike charities and not-for-profit groups, industry associations and corporations do not rely on donations. Companies and industry associations will be free to rely on revenue and membership fees to spend up to \$1 million each on election campaigns, even campaigning directly for politicians and parties. Further, the proposed legislations will not impose prohibitions on companies coordinating their election campaigns. By contrast, only a handful of charities and not-for-profits may be able to raise enough small donations to participate in the election debate, and those that do will face a far greater regulatory burden for donations handling.

### **B. The compliance burden is prohibitive**

As highlighted through the Koala Protectors scenario above the new requirements for handling donations to be used for electoral expenditure - including the notification requirements for donations of less than \$1,000 to be made by recipient and donor alike, the requirement to appoint an agent and maintain a state bank account, and determining what classifies as electoral expenditure - are complex, impractical and a significant barrier to advocacy.

Many of QCC's members are small community organisations who may have only one or two staff members, frequently employed only part time. Many organisations have committee structures [JE2] which are made up of volunteers that perform administrative functions. For example, it is very common for QCC member groups to have a volunteer treasurer. [JE3] This Bill puts a lot of additional burden and responsibility on committee members who are acting as volunteers.

The new administrative requirements put in place by this Bill will likely be difficult to comply with for small organisations. It [JE4] will already be challenging for community groups to identify which of their advocacy activities might fall under this definition of electoral expenditure, let alone ensure they are meeting the reporting requirements under this Bill, such as tracking donor statements, issuing donor receipts and notifying donors of their obligations under the law *in real time*, tracking political donations to ensure they do not exceed the \$4000.00 limit, and doing real time reporting of donations to the Electoral Commission of Queensland. Many QCC members frequently hire temporary or part-time external consultants for their bookkeeping and accounting needs and would be forced to direct their very limited financial resources or staff time towards compiling with these requirements.

We are concerned that the effect of the proposed donation caps and the onerous nature of the new reporting obligations are such that small organisations working on local issues and charities doing advocacy in Queensland will be unable to continue their regular public-interest advocacy work around election times. Many smaller organisations may be too apprehensive of non-compliance, or not possess sufficient resources, and therefore be unable to speak out about their issues. To chill community voices and advocacy in this way would be a step backwards for democracy in Queensland.

## Recommendations

The Queensland Conservation Council supports the following amendments to the Bill:

### **Amendment to the definition of electoral expenditure**

QCC supports inserting the following subsection to proposed section 199 of the Bill, which defines electoral expenditure:

*(6) Expenditure incurred by a third party registered under the Australian Charities and Not-for-profits Commission Act 2012 or with an annual income of less than \$50,000, is only electoral expenditure if material that is published, aired or otherwise disseminated refers to -*

*(a) a candidate or a political party; and*

*(b) how a person should vote at an election.*

On account of both categories of organisation posing a very low risk of being used to circumvent the donation cap to candidates and political parties, the amendment excludes small organisations with an annual income of \$50,000 or less and charities from the onerous obligations and risk of penalty under the Bill unless they do very specific, clear “vote-shifting” work.

We believe this amendment, by narrowing the definition of electoral expenditure for these two categories of third party alone, is preferable to merely raising the threshold for registering as a third party or raising the donation cap for third parties.

This amendment follows the approach of the narrower Victorian definition of “political expenditure” for third parties, which the Victorian government explicitly stated was designed to protect the right of third parties to pursue social issues advocacy, and the right of donors to fund it.<sup>[2]</sup>

The definition we propose here is narrower than the Victorian definition in order to best preserve the intended purposes of the Bill, while protecting the ability of charities and small community groups to pursue social issues advocacy, which we see as crucial.

### **Threshold for registering as a third party campaigner should be raised**

The current threshold at which organisations must register as a third party campaigner (\$1,000) is too low. The administrative burdens imposed under this Bill are significant, such that some organisations may need to spend more money trying to comply with the administrative requirements than in actual electoral expenditure around public interest advocacy on their issues. Such an impact is not only unreasonable, but likely to have a chilling effect whereby organisations decide not to participate in the election debate, rather than face the significant administrative requirements required for a registered third

party campaigner.

The threshold for registering as a third party campaigner should be raised to \$6,000 so as not to prohibit small community groups from participating in public interest advocacy activities around elections.

**Donations that are not related to or used for electoral expenditure should not have to be disclosed to the Queensland Electoral Commission**

An amendment to the Bill (section 263) is required to state clearly that donations that are not used for electoral expenditure are not required to be disclosed to the Queensland Electoral Commission.

I thank the Committee for the opportunity to comment on the Bill and am prepared to further discuss our recommended amendments at your convenience.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kevin Guy', written on a light-colored background.

Kevin Guy  
Chairperson  
Queensland Conservation Council

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<sup>[1]</sup> Queensland Conservation Council, [QCC Policy Priorities](#)

<sup>[2]</sup> The Victorian Electoral Legislation Amendment Bill 2018 Explanatory Memorandum states (Clause 40): *It is intended that gifts to associated entities and third party campaigners for the purpose of general issues advertising and awareness raising will not be considered political donations, if the gift is not for the dominant purpose of directing how a person should vote at an election by promoting or opposing a candidate or party. This will ensure the right of donors to be active in social issues, including by giving gifts to organisations that support these issues, without being subject to the limitations provided under the scheme. It will also ensure that third party campaigners are not subject to onerous reporting obligations due to activities that are not for the dominant purpose of directing how a person should vote at an election by promoting or opposing a candidate or registered political party. In his second reading speech, the Minister stated: "Advertising and raising awareness about issues, without promoting or opposing a candidate or political party, will not be considered political expenditure. Political expenditure has been defined narrowly in this way, to ensure that all Victorians will maintain their right to engage in public discussion on policy matters that are important to them."*