



Committee Secretary Economics
& Governance Committee
Parliament House
George Street
Brisbane Qld 4000

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

9th January 2020

Dear Members,

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

The Australian Marine Conservation Society (AMCS) is the leading charity devoted solely to caring for Australia's oceans and their wildlife. AMCS has over 250,000 members and supporters in Australia who we represent and work with, on key marine issues facing the nation. Although we are a national Charity, our headquarters is in Brisbane, and a large percentage of our supporters are based in Queensland. We work with science and conservation centres to support solutions that use the best available science to deliver better outcomes for our oceans.

We applaud the stated intention of this Bill to make elections fairer, and to limit the influence of big money over politicians in Queensland. Ensuring corporations and rich vested interests cannot exert undue influence on elections will improve the strength of our democracy, safeguarding free and fair elections that reflect the will of the people. However, we hold grave concerns that in its current form the Bill will stifle the critical issue-based advocacy of small community groups, and charities like ourselves.

Charities and not-for-profit organisations play a vital role in keeping governments accountable on issues of public interest and advocating for the public good. A vital test of any democracy is the ability of people to express views not shared by the government.

Australian Marine Conservation Society

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Our suggested amendments seek to support the broader intentions of the Bill, as stated above, while ensuring the critical role of charities and community groups is protected.

We would also like to note our concern that the inquiry into these significant changes is being held over the summer holiday period, with a very tight deadline, both barriers to participation. In addition, many charities and community groups that may be affected are focused on the response to the bushfire crisis, and may not have the time or resources to respond comprehensively through the submission process. This Bill will bring very serious changes that will transform the way elections are run in Queensland, and it will seriously impact community groups, like ourselves, and our ability to advocate on issues directly in line with our charitable purpose. We feel the timing of this process limits proper scrutiny and full public participation in the process.

The Bill will prevent charities and small not-for-profits from doing advocacy

Charities and not-for-profits like AMCS play an important role in our democracy. We are on the frontline of the greatest issues affecting our people and our planet. We bring emergent issues to the public's attention, amplify the voices of science and those affected by such issues, and inform public debate with policy expertise. Charities and not-for-profits also provide a critical long-term perspective on problems, and their solutions.

At AMCS, we work to secure the protection of marine habitats and species in the face of a rapidly deteriorating planet. An important aspect of this work is to build public awareness and promote respectful debate on issues via public communications activities. Through this advocacy, we encourage legislative and/or policy change that helps to protect the environment for the benefit of current and future generations. Recently, our work was critical in communicating the importance of vital water quality laws in Queensland, building public support for the changes that will help to protect our Great Barrier Reef.

The Bill would impede work such as this, because it 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 on community education, research, and public communications that relate to contested policy questions in the lead up to an election. Without appropriate exclusions for charities and non-profits, the bill would make it difficult for AMCS to advocate for policies that safeguard our ocean ecosystems - particularly our non partisan advocacy for vital policy changes which help to protect Queensland's iconic Great Barrier Reef.

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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. As an independent charity our critical advocacy work is funded by un-tied community donations, and the proposed donation limits will hamper our ability to engage in non-partisan work that highlights public interest issues 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.

B. The compliance burden is prohibitive

The new requirements for handling donations to be used for electoral expenditure - including the notification requirements for donations of any amount to be made by recipient and donor alike - will be impractical, overly complex and present a significant barrier for effective advocacy for an organisation like AMCS.

For everyday individuals, the new requirement to personally notify authorities of donations will deter them from giving to charities. Such a barrier will drastically reduce the funding that allows charities and non-profits to undertake critical conservation and advocacy work without leaning on government money.

As a charity, the requirement to appoint an agent and maintain a state bank account, and determining what classifies as electoral expenditure, will cost extra money and staff resources. This is a prohibitive burden for public interest organisations that depend on the generosity of individuals, and will severely impact and perhaps even prevent us from doing advocacy work.

We hold grave concerns 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 not be able to comply.

Charities and community groups already operate with limited administrative budgets, so as much funding as possible can be focussed on delivering vital services and delivering public interest advocacy work in support of our charitable purpose. This is what our members and supporters expect when they make their donations to our organisation.

Many measures already exist that ensure charities cannot use funds to promote or oppose political parties. Charities registered with the Australian Charities and Not-for-profits Commission (ACNC) already have various reporting requirements to ensure they are operating in accordance with the *Charities Act 2013* (Cth),

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which requires them to work in the public interest, and prevents them from having a purpose of promoting or opposing political parties.

Further, as an Incorporated Association (in Queensland) and a Registered Environmental Organisation, AMCS has additional annual reporting requirements to ensure we are engaging in activities in line with our charitable purpose and operating in accordance with legislative requirements and guidelines.

Recommendations

The Australian Marine Conservation Society supports the following amendments to the bill:

Amendment to the definition of electoral expenditure

Our organisation 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.¹ 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.

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Threshold for registering as a third party campaigner should be raised

The current threshold at which organisations must register as a third party campaigner (\$1000) is too low. The administrative burdens imposed under this Bill are significant, such that some organisations are likely to spend more money on trying to comply with the administrative requirements than they would spend on actual 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 \$6000 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. Without this amendment, this barrier is likely to cause a severe reduction in donations to charities and dramatically affect our ability to deliver critical services to Queensland.

On behalf of the Australian Marine Conservation Society, our supporters, and our oceans, I would like to thank you for the opportunity to make this submission, and for your careful consideration.

Yours faithfully,



Kellie Ireland
Acting CEO
Australian Marine Conservation Society

¹ 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."*