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**Electoral
Commission**
QUEENSLAND

9 January 2020

Committee Secretary
Economics and Governance Committee
Parliament House
George Street
BRISBANE QLD 4000
Email: egc@parliament.qld.gov.au

Dear Secretary

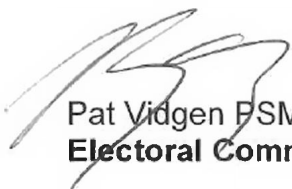
Thank you for the opportunity to provide a submission to the Economic and Governance Committee's (the Committee) on the *Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019* and *Inquiry into the feasibility of introducing expenditure caps for Queensland local government elections*.

Please find enclosed a submission from the Electoral Commission of Queensland (ECQ). If required, the ECQ would also be pleased to provide further information to assist the committee in its consideration.

Should you require further information regarding this matter, please contact Ms Cecelia Nuttall, A/Director, Strategy, Policy and Governance, ECQ on 1300 881 665 or at [REDACTED]

I trust this information is of assistance.

Yours sincerely



Pat Vidgen PSM
Electoral Commissioner

Encl

Electoral Commission of Queensland
Submission to Economics and Governance Committee
*Electoral and Other Legislation (Accountability, Integrity and Other Matters)
Amendment Bill 2019 and Inquiry into the feasibility of introducing expenditure
caps for Queensland local government elections*

The Electoral Commission of Queensland (ECQ) welcomes the opportunity to provide the Economics and Governance Committee (the Committee) a submission on the *Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019* (the Bill). As the agency responsible for administering many of the provisions contained in the Bill, the ECQ trusts this submission will assist the Committee's considerations.

The Bill proposes significant policy and operational changes to funding and disclosure requirements for electoral participants and election signage regulations during the conduct of election campaigns. This submission addresses the key operational impacts of the Bill as they relate to the electoral system and does not comment on the policy merits or rationale for the proposed amendments, as that is a matter for the Queensland Government.

The ECQ was consulted by the Department of Justice and Attorney General (DJAG) during development of the Bill to provide advice about the operational impacts of the proposed amendments. Given some of the provisions are intended to commence prior to the State general election due on 31 October 2020, it is critical that the ECQ is able to commence early planning for implementation of these reforms, subject to their passage by the Parliament.

Background

The Bill includes numerous amendments to the *Electoral Act 1992*, *Local Government Electoral Act 2011* and *Referendums Act 1997* that will be required to be implemented by the ECQ. Key amendments of relevance to the ECQ's functions include:

- the introduction of expenditure and donation caps for electoral participants
- the introduction of dedicated state campaign accounts for most electoral participants
- an increase in the policy development payments funding pool from \$3 million to \$6 million per annum from January 2021
- changes to election funding entitlements effective for the 2020 State general election including:
 - an increase from \$3.14 to \$6.00 per formal first preference vote for registered political parties and from \$1.57 to \$3.00 per formal first preference vote for candidates, and
 - a decrease in the eligibility threshold for both registered political parties and candidates from 6 percent to 4 percent of formal first preference votes
- an increase in the ECQ's funding and disclosure regulatory scope with an accompanying expansion in the offences it must enforce
- the creation of requirements for the registration of third parties and agents in some cases, and

- the introduction of restrictions on signage around early voting centres and polling booths at State general elections.

The Bill forms part of an ongoing process of electoral reform implemented in stages over recent years. Prior to the 2020 local government elections to be held on 28 March 2020, the ECQ will implement the most recent range of electoral changes legislated by the Queensland Parliament, including but not limited to:

- requiring additional disclosure through summary returns of gifts and expenditure for all sitting councillors, announced candidates and registered political parties
- mandating real-time disclosure of electoral expenditure and 24-hour disclosure of expenditure and gifts received within the final seven business days before polling day
- amending disclosure periods to increase reporting for third party campaigners
- prescribing information which is required to be disclosed, including company directors, employment type, industry and the true source of the gift
- requiring local government candidates to provide details of dedicated bank accounts at the time of nomination, and
- mandating completion of training prior to nomination for candidates at local government elections.

Implementation of these measures has involved a significant program of work to engage, train, and educate stakeholders, produce resources to support compliance, and implement necessary system upgrades, which has occurred concurrently with the process of planning for delivery of the 2020 local government elections.

The ECQ notes that a similar implementation program would be required prior to the 2020 State general election on 31 October 2020, should the Bill be passed by the Queensland Parliament. This will occur during the ECQ's preparations for the 2020 State general election, immediately following the conclusion of the local government elections. While the ECQ acknowledges that the Government must continually assess and update the regulatory regime to ensure it is fit for purpose and to implement commitments to the electorate, it is noted that this creates heightened risk for the ECQ during an election year when it is fully occupied with planning for and delivering election-related projects and activities.

Operational implementation of funding and disclosure changes

The Bill proposes fundamental changes to current arrangements for funding of registered political parties and candidates, the introduction of dedicated state campaign accounts as well as creation of new donation and expenditure caps. The ECQ notes that the Bill proposes the introduction of expenditure caps for the State general election in October 2020 with donation caps commencing after the 2020 elections. These changes will require the development of a range of new procedures, system functionality, and resources to enable the ECQ to regulate compliance with the proposed requirements.

The Bill also proposes a requirement for third parties to be registered with the ECQ once they are deemed an 'electoral participant' (defined as those incurring \$1,000 in electoral expenditure for the dominant purpose of promoting or opposing a candidate or party, or to influence voting at an election during the capped period). While the ECQ has data regarding third parties lodging returns for \$1,000 or more on the Electronic Disclosure System (EDS), this is not considered indicative of the number that would be required to register with the ECQ in the future. Therefore, it is difficult to determine the number of likely third party registrations and resulting resourcing implications. The ECQ considers that wide outreach will be required across multiple communication platforms to ensure compliance with the new registration requirements. Additionally, functionality of the EDS and the ECQ's Election Management System (EMS) will need to be expanded to cater for the registration of third parties as electoral participants and their disclosures of electoral expenditure.

Further to this, election funding claims will be directly related to expenditure caps (for both parties and candidates) with the Bill proposing that ECQ have the ability to recover amounts over the caps or subtract any debt owing to the State from the amount of election funding a candidate or party is entitled to. For this reason, the ECQ considers that it is crucial to ensure the implementation of appropriate systems and education material for stakeholders is in place upon the commencement of expenditure caps for future compliance action.

In implementing changes to electoral funding and disclosure laws over recent years, the ECQ has adopted an approach of proactive engagement with registered political parties and known candidates to provide information, advice and training to promote compliance with legislative responsibilities. The current proposed amendments would necessitate a similar approach, complementing the ECQ's existing Compliance and Enforcement Policy. The ECQ's experience in successfully implementing earlier changes, such as the Prohibited Donors Scheme, has been largely due to adopting an external focus, by conducting outreach and education activities with political entities to support their compliance. The proposed amendments will require engagement with a larger range of stakeholders and a broad communication strategy to ensure all electoral participants have the opportunity to comply.

The ECQ will consider, where possible, whether processes can be automated via systems such as the EMS and the EDS. Public confidence would be served through an automated, real-time process aimed at publishing information about third parties, agents, donations and expenditure while also minimising the impact on ECQ's resources.

The EMS is the first point of contact for all electoral participants and through which the EDS can be accessed for the disclosure of donations and expenditure. Other recent electoral amendments have necessitated changes to these systems which are being implemented for the local government elections, and the ECQ is exploring options with the relevant vendors for the purpose of promoting compliance with the changes proposed through this Bill. However, the ECQ is cautious about authorising new, costly development work from its vendors from within scarce resources, and requires certainty that this functionality will be necessary in order to progress the required changes to system functionality.

Finally, it is noted that some proposed amendments are to commence on a day fixed by proclamation. Projects related to the State general election such as the processing of election funding claims and the commencement of post-event compliance programs (e.g. disclosure returns, non-voters, etc.) will not commence until after election day in October 2020. These projects are resource intensive and the commencement of further amendments after the election would need to be factored into ECQ's workforce planning in order to meet the Government's policy objectives.

Compliance activities

The Bill proposes to introduce several new offences and compliance and enforcement functions. As a result of earlier amendments, the ECQ has prioritised the resourcing of the Funding, Disclosure and Compliance Division through its budget processes. The ECQ is undertaking recruitment of additional compliance officers prior to the local government elections in March 2020 to ensure the ECQ is able to respond proportionately to potential breaches of these proposed amendments in the lead up to and beyond the State general election in October 2020.

The ECQ's approach to enforcement is seeking compliance in the first instance through proactive engagement with stakeholders, with a similar approach to be adopted for the implementation of provisions contained in the current Bill. Additionally, proposed changes to recordkeeping, dedicated state campaign accounts and the introduction of donor statements will provide the ECQ increased data to interrogate for undertaking enforcement activity and targeted education strategies.

Signage

The Bill proposes restrictions on signage around early voting centres and polling booths at State general elections. There are already restrictions regarding canvassing in or around a polling place and these proposed amendments go further to improve the voters' experience, ensure equitable representation of candidates, and reduce damage to polling locations.

The ECQ welcomes any proposals that may facilitate a positive voting experience for electors, including ensuring electors are well informed but not impeded during the voting process. Additionally, as a service delivery agency which enters into contractual arrangements with a range of providers for polling booths, the ECQ also welcomes proposals which assist with reducing damage to such venues. A fundamental task in planning for an election is the sourcing of polling locations. This work starts in the year preceding the election and on occasion, the ECQ has not been able to secure a polling booth due to previous damage to the property by election campaigners. This has placed additional pressure on the ECQ to source suitable and economical locations for the delivery of the election.

It is hoped that provisions mitigating against potential damage to venues will incentivise providers to make venues available again in the future at the lowest possible cost (including, potentially, for the State general election in October 2020).

However, the ECQ notes that there would be an additional obligation on polling officials to enforce compliance of these restrictions and the possible imposition of penalties. Consultation with interstate electoral commissions with similar restrictions already in place will need to occur to assess whether the ECQ will be required to increase resourcing of polling places to ensure compliance. As the returning officer or polling booth supervisor would be required to remove any sign in breach of the proposed restrictions, the ECQ will also consider any associated workplace health and safety risks and escalation points. All returning officers and polling booth supervisors will need additional training in this regard, along with specific communication to registered political parties and candidates (and, through them, their campaign workers) about the restrictions.

Should the proposed amendments pass, the ECQ will work with interested agencies such as the Department of Transport and Main Roads, Queensland Police Service and lessors regarding arrangements required to operationalise the requirements.

Expansion of expenditure caps to local government elections

It is noted the Committee is concurrently seeking submissions on the feasibility of introducing expenditure caps for local government elections. The ECQ takes the position that many of the questions raised in the accompanying issues paper are policy decisions for the Queensland Government.

However, if expenditure caps are introduced for local government elections, the ECQ considers there is merit in ensuring the definitions and capped periods are consistent between the *Local Government Electoral Act 2011* and the *Electoral Act 1992*. Doing so will ensure candidates for State and local government are operating under similar systems and will create efficiencies for education strategies, stakeholder engagement and public awareness as well as for compliance and enforcement.