

Cairns and Far North Environment Centre

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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 feedback on the Electoral and Other Legislation (Accountability, Integrity and Other Matters) Bill 2019 (Bill). In the role of Director, I am making a submission on behalf of the Cairns and Far North Environment Centre.

The Cairns and Far North Environment Centre (CAFNEC) is a not-for-profit incorporated association that acts as the peak environment group for the region from Cardwell north to Torres Strait and from the east coast to the Gulf of Carpentaria. We work to protect the environment by enhancing the capacity of local groups and community members to act for conservation, strengthening networks within FNQ, facilitating region-wide cooperation to identify and coordinate action on issues of regional significance and when necessary, engaging in campaigns that are strategically important for the region. Our organisation is responsible for a region that stretches over 380,748 km², has 538 individual members and 28 member organisations. We also have a larger supporter base outside of our core membership.

CAFNEC supports the stated intention of this Bill to make elections fairer, and to limit the influence of big money over politicians in Queensland. It provides an essential element to our democracy. However, after reviewing the legislation, our organisation is deeply concerned that it will not meet the stated intention. As it reads, it will have major impacts on small community organisations and charities, like CAFNEC, yet still allow for the influence of the largest groups spending on, and influencing elections.

Charities and community organisations play an integral role in raising the voice of our community to ensure a just democracy. This is particularly true for regional, rural and remote communities, represented by organisations such as CAFNEC. The reality is that the everyday people who live in these decentralised communities face incredible challenges - environmental, social and economic - and without organisations like CAFNEC, who are on the ground listening to them, these communities would not have their issues heard by the decision makers. In FNQ these communities are responsible for the stewardship of essential natural environments, including iconic World Heritage Areas. Elections are a pivotal time where political decision makers are ready to listen to the needs of our people. It is essential that small organisations are not prevented from ensuring that community issues and needs are on the political agenda.

I would also like to highlight my concern regarding the consultation process for the inquiry related to this legislation. Submissions are due on a tight deadline during a traditional holiday period and a time where parts of our state are facing catastrophic fire events. I would suggest that extending the deadline for the consultation of this important democratic legislation would result in a more comprehensive process and outcome whilst respecting the current situation many individuals and organisations are currently facing.

The Bill will silence small community organisations and charities who advocate for important community matters

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 and community organisations used towards participation in public policy debate, research, and public communications on contested policy questions in the lead up to an election.

CAFNEC has represented FNQ regarding important environmental issues since 1981. It is because of our work, representing and collaborating with the FNQ community, that World Heritage areas such as the Wet Tropics have been protected and remained so. Issues such as this inevitably become political around elections, meaning that our regular work in these areas can easily be captured as electoral expenditure under this new legislation. It is essential that we remain able to speak on behalf of unheard communities and the environment during this time. More recent examples of our work that would likely be captured by this legislation include;

1. Spectacled Flying Foxes

- a. Campaigning with local Flying Fox Carers and Bat groups to advocate for the repeal of roost management and as-of-right laws. We asked for commitments from state politicians to ensure that the now endangered species, a key pollinator for the Wet Tropics World Heritage area, was protected.
- b. This included flyers, facebook communications, co-hosting the bat festival, articles in our quarterly magazine, information sheets as well as emails about the issue. Many of these communications would have been captured under this Bill.

2. Dredging - Sustainable Ports Bill

- a. **We campaigned for better policy.** The Great Barrier Reef was under threat and the campaign saw fisheries, tourism, farmers, community members and conservationists come together to ensure good policy on dredging.

- b. This proposal was a key election promise of the former Newman government¹ and our work to raise the issue in the public's attention would have been captured by this legislation.
3. Plastics - The Bag Ban and Container Deposit Scheme
 - a. Again, we have **campaigned² and ran projects³ over many years for policy reform** to reduce single use plastic and its impacts, particularly on marine environments like the Great Barrier Reef. Throughout our campaign we sent emails, sms, held community events with flyers, information stalls, and other communication materials.
 - b. This was another election issue that would likely have been captured under this legislation.
4. Yellow Crazy Ants - Action on Invasive Species
 - a. Yellow Crazy Ants are a serious threat to our communities and our environment. Here in FNQ there were huge amounts of volunteer time going into eradicating the invasive species, but without proper funding, real progress wasn't being made.
 - b. **We campaigned for the Queensland Government to deliver better funding to the program.** Many of our activities would have likely been captured under this legislation.
 - i. Our petition asked supporters to tell their elected representatives to fund the eradication of Yellow Crazy Ants
 - ii. Information communicated online, in emails, information sheets, flyers and in community stalls⁴ would likely have been captured.
5. Land Clearing
 - a. Land clearing is an election issue time and time again, and was a key election issue in the previous state election. As the coordinating body for FNQ we had an important role to raise the voices of our communities and the reef. **We campaigned for policy reform.**
 - b. We emailed, distributed flyers and information and held community events asking people to take action to encourage policy change.

From the list above you can see that our work is issues based. We work on key environmental

¹ Nancarrow, K. and Watson, M (2015) 'Government dumps plan to dredge Trinity Inlet in Cairns, Queensland MP Curtis Pitt says, ABC News

² CAFNEC, 'Plastic Bags, Think Outside the Bag', < <https://caf nec.org.au/what-we-do/sustainabilityclimatechange/think-outside-the-bag/>

³ CAFNEC, 'Category Archive: Plastic Bag Free', < <https://caf nec.org.au/category/sustainabilityclimatechange/plasticbagfree>

⁴ CAFNEC, 'Yellow Crazy Ants', < <https://caf nec.org.au/what-we-do/wildlife-issues/yellow-crazy-ants/>>

threats and ensure that we are generating public awareness of important environmental issues, and that our communities have a voice in public policy debate. This work has helped our state to introduce important legislation change and policy change to ensure that we continue to listen to our communities, and protect our invaluable natural environments. The work listed here is an essential part of our core constitutional objectives.

Above listed is the essential role our organisation plays in the FNQ community. Below I have highlighted the key concerns held by our organisation in regards to the proposed legislation and its limitation on our work.

A. The compliance burden is prohibitive

The new requirements for handling donations to be used for electoral expenditure is an administrative burden that will limit our participation in issue and policy debate, effectively silencing us. There are a few key parts that particularly concern us, including;

- the notification requirements for donations >\$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

We are a small organisation in a large regional area. As a result, the cost of communicating, travelling and doing our work is higher than what you would experience in a city. So as it stands our expenditure is likely to exceed the notification limit. Meaning that we would need to register as a 3rd party. However the administrative and compliance burden is likely to cost us more in staff time and processing than what we would spend in relation to our work. The cost of our core work advocating for the environment would double. It wouldn't be possible for us to meet these additional costs and administrations and remain financially viable.

As a charity and incorporated community organisation, CAFNEC is already required to report annually to the Australian Charities and Not-for-Profits Commission, Register of Environment Organisations and the Office of Fair Trading. We have extensive checks and balances on our advocacy work as it stands. The new reporting obligations will mean that small organisations working on local issues and charities doing advocacy in Queensland will not be able to comply.

B. The cap on donations

The Bill currently limits philanthropic donations that can be used for political expenditure to \$4,000 per donor, over four years. That limitation will undermine the ability of small organisations like CAFNEC to stand up for our communities and the environment we are stewards for. In rural Queensland we have less people across our community, and more people experiencing poverty than in urban centres. As a result, differently to a lot of bigger environmental and other organisations, regional conservation groups like CAFNEC rely on larger donations and grants.

The current legislation would impact some of the most simple of our fundraising activities, including;

- Our monthly giving program - we have a number of members who donate \$100 a month
- Major donors - As a small organisation we rely on these generous donations.
- Event fundraising
- Project Fundraising

We work hard to promote our natural environment and ensure that it is protected and cared for by our communities and government for the sake of everyone. So often environmental protection becomes an election issue because it requires governmental policy and it is our work to ensure that these policies are on the agenda of politicians. The proposed donation cap will prevent vital work to protect our environment and raise the democratic voice of communities.

Recommendations

The Cairns and Far North Environment Centre 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—

(d) a candidate or a political party; and

(e) how a person should vote at an election.

Charities already have reporting requirements at a federal level and organisations with an annual income of \$50,000 or less are low risk in terms of their ability to influence election issues. The proposed amendment will remove 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.⁵ 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 (\$1000) is too low. The administrative burdens imposed under this Bill are significant, such that some organisations may need to spend more money in 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 \$6000.00 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.

Sincerely,
Lucy Graham
Director, CAFNEC

⁵ 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.”*