

Bayside Creeks Catchment Group (BCCG) Submission to the Electoral and Other Legislation
(Accountability, Integrity and Other Matters) Bill 2019 (Qld)

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Submission to the Electoral and Other Legislation (Accountability, Integrity and Other Matters) Bill 2019 (Qld) (Bill)

Dear Members,

Bayside Creeks Catchment Group welcomes the opportunity to make a submission on this proposed Bill. In this submission we highlight our concerns about the effect this Bill will have in three areas. First, we believe this Bill unfairly targets charitable organisations instead of using more effective measures to increase donation transparency and limit third party influence in elections. We also draw attention to the negative impact the submission period and timing has had on the ability of small volunteer groups to respond to the Bill. Second, this Bill will further restrict the ability of small not-for-profit groups to conserve and protect our environment, and advocate in our communities for more urgent action on environmental issues. Third, the Bill will create unnecessary compliance burdens on our entirely volunteer run organisation, for which there is no need, nor evidence for their necessity.

This submission is made by BCCG on behalf of the group and its member groups:

- Mookinbah Bushcare Group
- Wynnum Creek Bushcare Group
- Stannard Road Bushcare Group
- Melaleuca Bushcare Group
- Harman's Reserve Bushcare Group
- Wynnum Home Grown Natives Group
- Wynnum Manly Boomerang Bags Group
- Wynnum Clean Up Crew

Background

Bayside Creeks Catchment Group is one of eleven catchment groups in the Brisbane City Council region. We are an incorporated, independent not-for-profit association with a membership of around 40 individuals, a mailing list of over 200, and over 50 regular volunteers. We deliver on the ground restoration activities in the Bayside Creeks catchment, as well as act as a voice for conservation and catchment issues in the area. Our income is acquired through project related grants and membership fees (\$10/person). Currently we have around \$4,000 in our bank account, with no guaranteed future income.

BCCG has operated since the early 1990s, firstly as the Bayside Environmental Network (BEN). Once Brisbane City Council (BCC) instituted the catchment group program, BEN chose to rename itself as a catchment group in order to receive greatly valued assistance and expertise from BCC. Even so, while BCC provides support to the catchment group and bushcare groups through its Habitat Brisbane program, we are entirely volunteer run, as are all our member groups. We currently advocate for increased biodiversity and habitat protection in the Bayside area and Moreton Bay UNESCO site, as well as run numerous programs supporting increased engagement in environmental care in the local area. As the only on-the-ground conservation organisation in the area, we perform a highly valued and much needed service to both the community and Brisbane's unique environment.

Introduction

BCCG agrees that there are serious issues with the influence of third party organisations in Australia's elections. Opaque donation laws mean that the major political parties have disclosed only between 10%-20% of their incomes as donations, with 20-35% of party income concealed¹. We recognise that this is a significant issue and support the willingness of the Queensland government to make elections fairer, and less influenced by 'big money'.

However, small charitable organisations are not the entities responsible for the influx of 'big money' in elections. Instead, the evidence points to large businesses such as PricewaterhouseCoopers and Philip Morris, organisations such as the Australia Hotels Association and mining companies such as Waratah Group having an outside influence, obtained through their substantial donations². In fact, the evidence demonstrates that the majority of private political donations come from corporations³. Yet despite the negative influence of these donations and the lack of transparency on the donation process, both major political parties have refused to consider changing the donation threshold or disclosures timeframes⁴. We wish to highlight the hypocrisy of this stance, and support the calls of experts that measures be taken to address these issues as a matter of priority rather than the restrictions placed on small charities as proposed in this Bill.

Rather than negatively influence elections in the manner attributed to big businesses, the charitable sector in Australia instead delivers significant economic, environmental and social values. For example, the charitable sector creates 3.8% of gross value added to the Australian economy, more than other industries such as the information, media and telecommunications industries (3%)⁵. Furthermore, small organisations such as BCCG play a vital role in supporting community engagement in civic and environmental issues and do so most often in an entirely volunteer capacity. The many thousands of similar groups across Queensland run a vast range of events, ranging from flora and fauna surveys, citizen science projects and workshops on sustainable and low impact living. The charitable sector and civil society have

¹ Edwards, Lindy, Feb 2 2018, '*The truth about political donations: there is so much we don't know*'. The Conversation <https://theconversation.com/the-truth-about-political-donations-there-is-so-much-we-dont-know-91003>

² <https://www.abc.net.au/news/2019-02-01/donations-australia-federal-politics-foreign/10768226>

³ Young, Sally (2006). *Political finance in Australia : a skewed and secret system* (PDF). *Australian National University*. Archived from *the original* (PDF) on 17 October 2011.

⁴ <https://www.abc.net.au/news/2018-11-15/labor-and-coalition-reject-changes-to-political-donation-laws/10502660>

⁵ https://www.ourcommunity.com.au/general/general_article.jsp?articleId=103

in the last two decades, stepped in to provide significant services and benefits to Australian society. In doing so it has helped build and grow vibrant communities, offering social outlets and meaningful opportunities to engage in conservation in the local community. Groups such as ours also provide services which are responsive to the needs of the community, fill gaps not provided by government services, and are relevant and accountable to the individuals we engage.

Despite this overwhelming value, the vast majority of groups are dependent entirely on volunteers, and over 75% of advocacy groups have a total gross income of \$0. In fact, the ACNC 2014 report highlighted the fact that 35% of charities received no donations at all, and 25% of charities rely on donations for more than half of their income⁶.

This Bill, rather than celebrating the immeasurable positive impact of these activities on Australian communities, seeks to further penalise small volunteer groups such as BCCG. In addition, requiring that submissions on this Bill be done in such a short time frame, and over the Christmas period, appears to be a deliberate attempt to even further restrict the opportunity small charitable organisations have in participating effectively in civic society.

We therefore firstly wish to highlight how this Bill is targeting the wrong entities, and secondly note the unfair process by which this Bill has been offered for public comment. We also wish to state that this improper approach further strengthens our belief that this Bill is designed to restrict and constrain the ability of small, volunteer groups to operate in Queensland, when the research is clear that the real target should be increasing the transparency of corporate donations.

In the following paragraphs we discuss further two amendments we wish to have made to the proposed Bill.

Issue 1: Restrictions on advocacy and the cap on donations

Australia has been through three recent attempts by the Federal Government to introduce legislation designed to stop charities and not-for-profits from undertaking advocacy. In particular, the environmental sector has suffered attempts by the Federal Government to limit their opportunities to advocate for better environmental protection, force groups to spend half their income instead on 'remediation' and ban all foreign donations to them⁷. This latest Bill is another attempt to restrict the advocacy which small charitable organisations - particularly those working in the environmental sector - can undertake.

The proposed Bill does this through proposing a broad definition of expenditure which will capture the regular expenditure of charities used outside electoral time periods. This definition means that when BCCG participates in public policy debate, undertakes research and communicates on policy questions, all these activities will be included in the expenditure definition. Through classifying these activities as electoral expenditure, the proposed Bill will therefore greatly restrict the ability of our group to undertake meaningful work for the environment - which involves injecting our expertise and evidence into policy debates and not being involved in political debates. This is devastating, particularly given the urgent need we have to stop climate change and preserve the habitat we have left. The recent 2019/2020

⁶ ACNC's *Australian Charities Report 2014*

⁷ <https://www.theguardian.com/australia-news/2017/nov/01/charities-fight-coalitions-attempt-to-limit-advocacy>

bushfires, for example, have shown how significant environmental issues are and how much policy decisions can impact on our communities. The proposed Bill will restrict our normal operations to develop more effective evidence based policy around environmental management and alleviate environmental problems.

For example, BCCG regularly participates in public policy debate. In fact, it is a core aspect of our purpose. Here in our local community we face serious issues which negatively impact our local environment. One is example is the regulations on the use of nature reserves. Currently individuals are using our local nature reserves for horse riding and four wheel driving, which negatively impacts on the reserve ecosystem and causes significant damage to our remediation works. This issue can only be addressed through the implementation of policies and compliance measures by Brisbane City Council or Queensland State Government, policy change which we are currently advocating for. Similar issues arise with planning for sea level rise along the Wynnum and Manly foreshore, as well as our work seeking to increase habitat for Koalas, which are facing an extinction crisis in Queensland and Northern New South Wales. We advocate strongly for greater protection of Koalas, and the implementation of policies designed to ensure their ongoing survival.

Thus, if approved, the Bill will limit our ability to undertake non-partisan evidence based policy advocacy on these issues. This undermines our values and our purpose as a small, volunteer, not-for-profit voice for conservation in the Wynnum Manly area. It also undermines the significant contribution our group and other similar groups make to the local community, civil society and toward improved policy outcomes. Furthermore, any loss of funding we experience through this Bill will not be covered elsewhere. As a very small organisation depending entirely on membership dues, donations and grants to undertake our projects, we will instead be unable to undertake our core activities. This is in contrast to political parties, which will receive public funding as compensation.

Issue 2: Unnecessary compliance burden

As a volunteer organisation we already complete our required ACNC documentation on an annual basis. This includes the full presentation of administration documentation, annual reports, and auditor's assessments to the ACNC. The additional burdens proposed through this legislation are both unnecessary and a further burden on volunteer time.

Our annual financial reports are already comprehensively reviewed and accepted by an auditor each year. Thus, the new requirements outlined in the Bill for donations (of any amount) are complex, impractical, and not required. For example, we already have our own BCCG bank account, thus making the additional 'State campaign account' entirely unnecessary. Given our donation income each year is less than \$500, the proposed requirement that this account be set up for spends of any account is a heavy burden and virtually unworkable. Our full income and expenditure is already made available to the government and the public via our ACNC annual returns. We have only a core volunteer team of three individuals who undertake all the administration work for the organisation, and thus this Bill will simply add to their volunteer workload for no demonstrable gain in transparency.

Furthermore, given the issues highlighted above regarding the restriction on advocacy incurred through this Bill, we are very concerned that the ambiguous definition of advocacy

makes it virtually impossible for our organisation to understand and implement the required compliance regime. This is doubly so given that we have neither an in house lawyer, nor funds to pay for any legal advice regarding the Bill. However, if we define our volunteer operations incorrectly despite the legal ambiguity, our small volunteer organisation faces a large penalty. Given the very small funds we currently hold, this will likely lead to the closure of the organisation. We are not alone – many incorporated associations such as BCCG also have very little income, and have only a small team of overworked volunteers.

In addition, the requirement in the Bill for a ‘donor statement’ detailing information on the future use of all received funds is an excessive administrative requirement which would substantially increase the work requirements on volunteers for no provable benefit. Alongside the need to provide a return detailing every item of expenditure for five years, we can only interpret this as a deliberate attempt by the Queensland government to wipe out small community groups such as BCCG.

Proposed amendments

For the reasons outlined above, our organisation recommends three amendments.

Proposed amendment 1: Amendment to the definition of electoral expenditure.

BCCG supports the insertion 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.

Both categories of organisation above pose a negligible risk of being used to circumvent the donation cap to candidates and political parties. The recommended 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. This will ensure that groups such as ours can continue to provide these valuable contributions to the community and to improved evidence based policy.

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.

Proposed amendment 2: we recommend that in order to remove these restrictions on our community work the 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 and policy advocacy activities (such as expert commentary) around elections. These two activities are distinct from political activity, and this distinction should be made clear in the Bill.

Proposed amendment 3: Donations that are not related to or used for electoral expenditure should not have to be disclosed to the Queensland Electoral Commission.

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

We thank the Members for the opportunity to provide feedback on the Electoral and Other Legislation (Accountability, Integrity and Other Matters) Bill 2019, and urge them to amend the Bill as requested above. In doing so, this will demonstrate their understanding and valuing of the vital role small community groups such as BCCG play in building strong and sustainable communities.

Yours sincerely,

Robyn Gulliver

Robyn Gulliver

Secretary

Bayside Creeks Catchment Group

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