

15 June 2018

Mr Michael Brougham
Manager, Cabinet Coordination
Department of the Premier and Cabinet
Level 7, State Administration Centre
200 Victoria Square
Adelaide SA 5000

By email: DPCSALobbyistRegister@sa.gov.au

Dear Mr Brougham

Feedback Regarding the draft Lobbyists (Restrictions on Lobbying) Amendment Bill 2018

The Australian Professional Government Relations Association (APGRA) welcomes the opportunity to provide feedback to the South Australian Government regarding the draft Lobbyists (Restrictions on Lobbying) Amendment Bill 2018 ('the Bill').

The APGRA was established in 2014 by a number of longstanding public affairs consulting firms and senior practitioners to promote ethical standards, greater transparency and a binding Code of Conduct applicable to all members conducting government relations activity. Further information on the APGRA can be found at www.apgra.com.au.

The APGRA broadly supports the public policy principles underpinning both the *Lobbyists Act 2015* (SA) ('the Act') and the Bill. Seeking to establish minimum standards of conduct for consulting practitioners in their professional activities, and requiring transparency as to third party interests being represented to government, serves to recognise the role legitimate lobbying activities have in our democracy and supports the integrity of our system of government.

We note that restrictions on the lobbying activity of political party office bearers exist in various forms in other Australian jurisdictions where lobbying activity is regulated. Specifically in the Federal, NSW and ACT jurisdictions, these essentially provide that a person will not at the same time serve in a senior political party role and undertake lobbying activity.

APGRA agrees that government relations practitioners should keep strictly separate their professional activities and any personal activity or involvement on behalf, or as a member, of a political party. Indeed, the APGRA's own binding Code of Conduct – adopted by each of our members – requires that practitioners will not simultaneously serve in an executive role with a political party, or play a senior management role in the conduct of an election campaign.

While the APGRA supports the policy intent of the Bill, we are concerned that some aspects of the proposed legislation are unclear in their practical impact and may go beyond what is required to achieve the desired integrity outcomes. Our brief comments on the Bill identify these areas of concern and suggest solutions that may provide clarity for affected individuals.

1. Restriction on lobbying in respect of matters dealt with in previous role

Proposed section 13(1)(d)(ii) would place restrictions on lobbying activity by former office bearers of political parties and associated entities. The APGRA is unclear as to what types of matters would be captured by this provision, given the nature of the activities normally undertaken by a senior office bearer or employee of a political party are focused on issues

such as election campaigning, membership, administration, compliance, training etc. These are not matters that would normally be the subject of 'lobbying'.

Where issues of public policy arise within a political party, these are typically issues initiated at a grassroots level of a party and debated in the context of a party conference or assembly. Is the proposal under the Bill that where a former party office bearer has been involved in the debate of a particular public policy issue, for instance at a party conference or assembly, that this individual is restricted from lobbying on issues with the particular area for 12 months?

We think the better approach would be to remove section 13(1)(d)(ii) and instead expand section 13(1)(d)(i) to mean that a current political party office bearer may not engage in any lobbying activities – effectively, the equivalent approach taken at the Federal, NSW and ACT levels.

2. Scope of 'prescribed organisation' definition

The APGRA is concerned by the scope of the prescribed organisation definition, specifically, whether this is limited to the South Australian branch of a national political party, or whether it would impact a former office bearer or employee of a political party from outside the state. It would seem excessive for the latter to be the practical impact of the provision as such a person would not have had any particular involvement on policy issues in South Australia. Our understanding is that the provision will only apply to the South Australian branch of a national political party, registered under the *Electoral Act 1985 (SA)*, however we would appreciate further clarification on this point.

This issues falls away as a concern if APGRA's recommendation, above, restructuring proposed section 13(1)(d) is adopted.

3. Additional organisations prescribed by regulation

As drafted, section 13(4)(b) of the Bill gives the Minister the ability to prescribe additional organisations by regulation (i.e. beyond political parties or their associated entities). In APGRA's view, this is contrary to the public interest in preserving democratic institutions and freedom of expression. Any further restriction on the activity of individuals based on their previous employment or associations should take the form of legislative changes and be fully considered by parliament, rather than implemented by regulation.

The APGRA is committed to supporting the integrity of government processes and ensuring its members comply with internal and legislative standards for government relations practitioners. It is critical that the Bill provides public confidence in the veracity of government interactions with lobbyists and their clients, while also being workable and sensitive to the requirements of businesses and government to interact effectively for the public good.

We would be pleased to further discuss our feedback on the Bill. Please do not hesitate to contact me on 61 2 8353 0400 or 61 411 531 731.

Yours sincerely

[signed]

Les Timar
President
(CEO & Founding Partner of GRACosway)