



**Submission to the Department of Justice and  
Attorney-General**

**Electoral Reform Discussion Paper**

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## 1. Political Donations: Are the existing laws effective in protecting against the potential for undue influence and corruption? How can they be made more effective?

While the existing laws in relation to political donations suitably address how donations are defined and attributed, current disclosure and accountability measures are not sufficient to protect against undue influence and corruption. Any amendments to the current legislation must be developed to ensure that people and/or organisations who make political donations cannot and do not receive any financial benefit as a result of their contributions.

Recent examples where people and/or organisations that made donations to the current State Government<sup>1</sup> and have since enjoyed a financial benefit from the Government include:

- Paul Ramsay Holdings & Ramsay Health Care – contributed collectively \$605,000.00 in the last financial year to the Liberal Party of Australia, they have since been awarded a service purchase arrangement with Queensland Health at a private hospital site on the Sunshine Coast<sup>2</sup>. They will directly benefit from the State Governments plan to ‘outsource’ – most people call that privatise – the Queensland Public Health system.
- ERM Power – donated \$17,700.00 in the last financial year to the Liberal National Party of Queensland. Subsequently, their Chairman Tony Bellas was appointed by the Queensland State Government to an Independent Review Panel to “*investigate the impact of Queensland's electricity network on prices and provide solutions for a secure and cost-effective network*”<sup>3</sup>. ERM Power have benefitted financially from the State Governments decision to commence mothballing publicly owned generation facilities; As a result of the State having a lesser generation capacity, in peak periods the Government has been required to purchase additional electricity from private enterprise at a significantly higher cost, coincidentally the main supplier from the private sector has been ERM Power through their Oakey Power Station.

Caps on political donations for campaign purposes, not only reduces undue influence of those people and/or organisations that make the donations but also allows greater equity in the level of resources among candidates, provided that the caps are adhered to and not manipulated. Disclosure of donations should be required for the total amount contributed to avoid people and/or organisations making multiple donations below disclosure thresholds to avoid reporting obligations. Further, to ensure greater transparency and

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<sup>1</sup> See Australian Electoral Commission Summary of Donations reported by Donors - By Party - 2011-12 Liberal National Party of Queensland & Liberal Party of Australia -

<http://periodicdisclosures.aec.gov.au/SummaryDonor.aspx>

<sup>2</sup> See Ramsay Health Care News - <http://www.ramsayhealth.com/News/Sunshine-Coast-University-Project.aspx>

<sup>3</sup> See Queensland Government Department of Energy and Water Supply, Electricity Sector Reform - <http://www.dews.qld.gov.au/policies/electricity-sector-reform>

accountability with respect to political donations, not only the recipient but also the donor must have an obligation to disclose the details of any political donation. Moreover, all such reporting must be submitted within strict timeframes to ensure the public have access to the information within a suitable period of time.

In order to reduce the advantage that Governments have over other political parties and candidates, the Government should not be allowed to use Government supported, thus publically funded, functions as fundraisers for their political parties and/or candidates. Provided that all other fundraising events comply with the applicable reporting obligations, fees for attending fundraisers should continue to be regulated in the manner that presently exists.

Annual subscriptions and affiliation fees paid to political parties should not be considered as a political donation, as such contributions are utilised for administration costs associated with running a political party.

## **2. Public Funding for Elections: Are public funding arrangements in Queensland fair? How should public funding entitlements be determined?**

Public funding of elections makes up an important part of campaign financing. There needs to be a balance of public funding and donations to candidates/political parties. The argument that taxpayers should not be forced to subsidise political parties/candidates they do not support, fails to recognise that public funding in fact subsidises democracy. It ensures that candidates whether from a political party or running as an independent are able to participate in the democratic process and are not hindered by monetary constraints that would otherwise prevent their participation and thereby impinge on their right to 'take part in the Government of his [or her] country'<sup>4</sup>.

While capping of political donations will reduce the undue influence of donors - individuals and/or organisations - public funding is required to supplement those donations to ensure the costs associated with election campaign expenses can be covered.

Maintaining public funding arrangements ensures that we avoid a system of government like that of the United States of America where politicians are reliant on donations and are captive to big business and interest groups such as the National Rifle Association as a result. In a situation like their's, voter's interests take a back seat to the demands of the donors with the dollars.

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<sup>4</sup> See Article 21 Universal Declaration of Human Rights - <http://www.un.org/en/documents/udhr/>

### **3. Election Campaign Expenditure: Are the existing laws relating to electoral expenditure effective in creating a more level playing field? How can the existing laws in relation to electoral expenditure be made more effective?**

Retaining caps on electoral expenditure ensures, as much as possible, that candidates are given equal financial opportunity to participate in the democratic process of being elected. Moreover, it prevents big business and other interest groups/individuals from donating extravagant amounts of money to gain undue influence over a specific candidate/political party and prevents excessive and wasteful campaign expenditure. Ensuring that campaign expenditure is capped reduces the reliance of candidates/political parties on both donations and public funding.

Expenditure of a political party should not be aggregated with the expenditure of its affiliated organisations, nor should the expenditure of affiliated organisations be aggregated. Each affiliated organisation represents different constituencies with varied interests that are distinguishable. Further, politics is not the purpose of an affiliated organisation but rather a consideration like any individual. As such affiliated organisations should have the political freedom to campaign for and express their individual interests.

Volunteer labour should not be counted as electoral expenditure as it is an individual's right to participate in the democratic process of electing one's government<sup>5</sup>. Including volunteer labour as part of electoral expenditure would potentially prohibit individuals from participating which is in breach of a basic human right.<sup>6</sup> Volunteer labour must mean that individuals are not paid for the work that they do for the campaign/election.

### **4. Truth in Political Advertising: Should truth in political advertising legislation be introduced in Queensland? If so, should it extend beyond advertisements to other inaccurate and misleading statements?**

Any and all political advertising and statements should be honest, truthful and accurate. Sadly, political advertising and statements made by the current government in the lead up to the last State Election and since highlight the necessity of such legislation<sup>7</sup>.

While implementing this type of legislation and enforcing such provisions would be difficult whether that be identifying contraventions, prosecuting the case, establishing

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<sup>5</sup> See Article 21 Universal Declaration of Human Rights - <http://www.un.org/en/documents/udhr/>

<sup>6</sup> See Article 21 Universal Declaration of Human Rights - <http://www.un.org/en/documents/udhr/>

<sup>7</sup> See Campbell Newman promising to look after public servants - [http://www.youtube.com/watch?v=V\\_oKJL03XsY](http://www.youtube.com/watch?v=V_oKJL03XsY); See Newman Back flip on Uranium Mining - <http://images.brisbanetimes.com.au/file/2012/10/22/3733773/Uranium%2520mining%2520Henry.pdf?rand=1350882751449>

appropriate retribution and/or remediation and progressing that matter within a timely manner so that any outcome can be determined while still relevant, it is imperative, in the current political climate, that we bring honesty back to politics and it appears the only way to do so is through legislating morality.

Despite the complications with implementing this legislation, South Australia have successfully introduced a new offence into the Electoral Act 1985 (South Australia) that addresses misleading advertising<sup>8</sup>. It would be advantageous for Queensland to introduce similar legislation, however to ensure that it would be a genuine deterrent, particularly for larger political parties, the penalties should be greater.

Another consideration is the potential for misuse of the law, by individuals or groups that may seek to disrupt or prevent a legitimate advertising campaign from proceeding to benefit them or others. In order to minimise any such risk, the legislation should also include penalties for those individuals or groups found to have brought a case against another party maliciously and/or without substance.

## **5. How to vote cards: Should how-to-vote cards be subject to increased regulation?**

Existing regulation that stipulates that how-to-vote cards must be authorised with those details being visible on each card is an appropriate requirement, to ensure transparency and accountability of the producers of the how-to-vote cards.

In addition to the requirement that all how-to-vote cards must be lodged with the Electoral Commission of Queensland (ECQ) at least seven days prior to an election<sup>9</sup>, in order to facilitate voters having access to how-to-vote cards prior to elections, to enable better analysis of the material and allow those voters who do not attend voting centres the opportunity to view them, it would be beneficial if all how-to-vote cards are published online on the ECQ website.

How-to-vote cards aid many voters in determining how they will cast their vote and provisions around handing out how-to-vote cards should remain unchanged. However in recognition that people are becoming increasingly mindful of the environmental impacts that occur as a result of the production of how-to-vote cards, to ensure that they are still given access to the information contained within the how-to-vote cards, in the event they choose not to take copies, it would be advantageous if they could be displayed in each polling booth and/or on corflutes on the walls of the voting centres.

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<sup>8</sup> Section 113 Electoral Act 1985 (South Australia) - <http://legislation.sa.gov.au/LZ/C/A/ELECTORAL%20ACT%201985/CURRENT/1985.77.UN.PDF>

<sup>9</sup> Section 183 of the Electoral Act 1992 (Queensland) - <http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/E/ElectoralA92.pdf>

## **6. Proof of Identity: Should voters be required to produce proof of their identity on polling day?**

Any electoral reforms should be in the interests of increasing voter participation and/or improving the integrity of the electoral system, where there is a need. Providing proof of identity on polling day does not address either of these criteria.

Electoral fraud has not been identified as an issue within this area and there is an acknowledgement that those voters who are already registered on the electoral roll have complied with all identification requirements at the time of their enrolment. The only exception being those voters who would enrol on Election Day, should there be an amendment to enable this to occur.

There is the potential that voters may turn up without the required documentation and would therefore be ineligible to vote at that time, which would lead to lower participation rates and potentially the election of a government that is not reflective of the majority opinion of constituents.

While there are other countries around the world that have proof of identity requirements for voting, no other jurisdiction in Australia requires proof of identity

## **7. Enrolment on polling day: Should voters be permitted to enrol on polling day?**

As with other jurisdictions in Australia, including the Commonwealth, there are clear benefits in allowing voters in Queensland to enrol on polling day.

Amendments to the Act<sup>10</sup> that were made prior to the last State general election that provided for voters to register and make changes to their details on the electoral roll up to 6.00pm on the day prior to the election were utilised by thousands of voters within the period from the announcement of the election through until the close of roll<sup>11</sup>.

Allowing voters to enrol in person on polling day at a voting centre will further increase voter participation in elections.

In order to avoid fraudulent enrolments there would be a compulsion for any voter to enrol on polling day that they must provide relevant proof of identity documents, including verification of their current residential address and a signed declaration that they are entitled to vote. In addition, any such vote would not be included in the final electoral tally until such time as the voter's identity and eligibility can be verified.

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<sup>10</sup> See section 65 of the Electoral Act 1992 (Queensland) - <http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/E/ElectoralA92.pdf>

<sup>11</sup> Electoral Commission of Queensland 2011-2012 Annual Report, p19 - <http://www.ecq.qld.gov.au/resources.aspx?id=273>

## **8. Electronic Voting: Should electronic voting be introduced in Queensland?**

The introduction of electronic voting in Queensland for all voters would be means to increase the accessibility of voting in elections. It would be in no way intended to replace existing voting systems but rather provide voters with an additional method of voting, in the same way that other countries have introduced electronic voting and more specifically remote access internet voting<sup>12</sup>.

New South Wales has successfully introduced an electronic system called 'iVote' which relies on the voter to supply a PIN that they choose for themselves, they then receive a letter confirming their registration as well as an individual iVote number that is used to access the system online and vote<sup>13</sup>. Although New South Wales have limited access to this system to voters who meet a particular criteria<sup>14</sup>, the overall concept is about making voting more accessible and convenient for voters. Accordingly, the development of such a system within Queensland that could support all Queensland voters would encourage greater participation through the provision of more methods of voting being made available.

## **9. Postal Voting: Are there any opportunities to improve the postal voting system?**

Along with the introduction/implementation of an electronic voting system, any changes to the postal voting system should be about increasing voter participation which in the case of postal voting can be achieved through minor improvements to existing structures.

Firstly, the provisions under which a voter can apply for a postal vote should be expanded. The Victorian model<sup>15</sup> would be a suitable option for Queensland as it minimises restrictions on the eligibility of voters to apply for a postal vote as it recognises that there are occasions where people are unable to attend a voting centre on election day that are outside of the current eligibility criteria<sup>16</sup>.

Secondly, in accordance with the technological advances and social reliability on computers and the internet that exist within Australia, like other states Queensland should move towards the introduction of online postal vote applications. Enabling voters to apply online for a postal vote through a secure system would aid in the expediency of issuing postal vote ballots, particularly in

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<sup>12</sup> International Experiences of electronic voting and their implications for New South Wales – a report prepared for the New South Wales Electoral Commission, Associate Professor Rodney Smith, University of Sydney, July 2009 -

[http://www.elections.nsw.gov.au/\\_data/assets/pdf\\_file/0013/103207/International\\_Experiences\\_of\\_Electronic\\_Voting\\_and\\_Their\\_Implications\\_for\\_New\\_South\\_Wales\\_Report\\_2009.pdf](http://www.elections.nsw.gov.au/_data/assets/pdf_file/0013/103207/International_Experiences_of_Electronic_Voting_and_Their_Implications_for_New_South_Wales_Report_2009.pdf)

<sup>13</sup> See Electoral Commission NSW iVote - <http://www.elections.nsw.gov.au/voting/ivote>

<sup>14</sup> See Electoral Commission NSW iVote - <http://www.elections.nsw.gov.au/voting/ivote>

<sup>15</sup> Section 98 of the Electoral Act 2002 (Victoria) -

[http://www.austlii.edu.au/au/legis/vic/consol\\_act/ea2002103/s98.html](http://www.austlii.edu.au/au/legis/vic/consol_act/ea2002103/s98.html)

<sup>16</sup> Section 114 (2) of the Electoral Act 1992 (Queensland) -

<http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/E/ElectoralA92.pdf>

rural and remote areas where access to voting centres can be limited and it can take a number of days for postage to arrive.

Finally, if voters are able to register for a postal vote online, it would be possible to bring forward the deadline for lodging postal votes. Bringing the deadline forward would prevent voters, for the most part, from receiving their ballot papers after the election, thus ensuring they are given every opportunity to vote.

## **10. Compulsory Voting: Should compulsory voting remain for Queensland State elections?**

The United Nations Universal Declaration of Human Rights recognises the significance of an individual's right to vote and further that it is "the will of the people [that] shall be the basis of the authority of government"<sup>17</sup>. In Australia across all jurisdictions, we have a system of compulsory voting for all levels of government and this has been the case for about 100 years<sup>18</sup>. Although some would argue that compulsory voting is an infringement of an individual's liberty, that is certainly not the case, rather it ensures that all citizens who are eligible to vote are guaranteed every opportunity to do so and if when it comes time to cast a vote they determine that they do not wish to choose a candidate they are not required to mark their ballot, their right to choose has been maintained and their liberties upheld. Voting is not only a right but a responsibility, the candidates that are elected are our representatives and without participating in the election of governments we are not meeting our civic obligations<sup>19</sup>.

Australia under a compulsory voting system has been able to achieve and maintain high participation/turnout rates for elections, with those figures remaining above 90% since the introduction of compulsory voting in federal elections in 1924<sup>20</sup>. It should also be noted that consistently studies have demonstrated that there is majority support for compulsory voting in Australia at a rate of 74%<sup>21</sup>.

Compulsory voting requires candidates and subsequently governments to take into account the interests of all constituents when making policy decisions, supported by truth in political advertising and statements, this equates to decisions being made in the interests of all voters rather than in the case of non-compulsory voting, focusing policy on groups of voters that may have a higher propensity to vote than others. Compulsory voting ensures that all eligible voters are given the chance to elect a candidate that they feel will best represent them and further; it ensures that government is reflective of the desires of the majority.

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<sup>17</sup> See Article 21 Universal Declaration of Human Rights - <http://www.un.org/en/documents/udhr/>

<sup>18</sup> See Australian Electoral Commission - [http://www.aec.gov.au/voting/Compulsory\\_Voting.htm](http://www.aec.gov.au/voting/Compulsory_Voting.htm)

<sup>19</sup> See Article 29 Universal Declaration of Human Rights - <http://www.un.org/en/documents/udhr/>

<sup>20</sup> See Australian Electoral Commission - [http://www.aec.gov.au/About\\_AEC/Publications/voting/index.htm](http://www.aec.gov.au/About_AEC/Publications/voting/index.htm)

<sup>21</sup> See Australia Electoral Commission (2006) *Compulsory Voting in Australia*. p. 9 -

[http://www.aec.gov.au/About\\_AEC/Publications/voting/files/compulsory-voting.pdf](http://www.aec.gov.au/About_AEC/Publications/voting/files/compulsory-voting.pdf)

## **11. Voting System: Should the voting system used for Queensland State elections be changed?**

The current optional preferential voting (OPV) system that exists within Queensland has continually demonstrated its validity as the voting system of choice through the consistently lower levels of informal votes compared to similar jurisdictions that enforce full preferential voting systems (FPV), such as Victoria and South Australia<sup>22</sup>.

Given the large proportion of Queensland voters that choose to vote for only one candidate, any changes to the voting system in the state elections, would likely lead to an increased number of informal votes.

OPV allows constituents to cast a vote that is genuinely reflective of their choice. Those who are only interested in one candidate are not forced to preference other candidates and potentially having their vote allocated to a candidate that they do not support. Likewise, those constituents that prefer to specify their candidate preferences are still given the opportunity to do so.

Any electoral reforms including changes to voting systems should be based on increasing participation by voters through improved accessibility regarding enrolment and voting as well as the reduction of informal votes to ensure the election of a government that is reflective of the constituency and will govern for all citizens rather than a few interest groups.

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<sup>22</sup> See Victorian Electoral Commission - <https://www.vec.vic.gov.au/Results/results-state-statistics.html>; See South Australian Electoral Commission - [http://www.ecsa.sa.gov.au/apps/uploadedFiles/news/625/3-Election\\_Stats\\_2010\\_Part\\_Three.pdf](http://www.ecsa.sa.gov.au/apps/uploadedFiles/news/625/3-Election_Stats_2010_Part_Three.pdf)