

28 October 2022

Mr Linus Power MP  
Chair  
Economics and Governance Committee  
Parliament House  
George Street  
Brisbane QLD 4000

By email: [egc@parliament.qld.gov.au](mailto:egc@parliament.qld.gov.au)

Dear Mr Power

### **Integrity and Other Legislation Amendment Bill 2022**

The Australian Professional Government Relations Association (APGRA) welcomes the opportunity to provide a submission to the Economics and Governance Committee (EGC) in relation to the Integrity and Other Legislation Amendment Bill 2022.

APGRA is the professional association for consulting and in-house government relations practitioners around Australia. Our Code of Conduct (**Appendix A**) regulates the behaviour of our members and promotes high ethical standards within the government relations profession.

APGRA's members also operate in accordance with the Queensland Government's integrity framework, including the *Integrity Act 2009* (QLD) and the Lobbyists Code of Conduct 2013, along with similar codes and legislation in place in other jurisdictions.

APGRA is pleased to provide feedback on the Integrity and Other Legislation Amendment Bill 2022 from the perspective of professional government relations practitioners. Our submission focuses on the proposed offence for unregistered lobbying and highlights APGRA's key questions and concerns about the practical operation of this offence.

Thank you for the opportunity to provide comment and please do not hesitate to contact us on the contact details below for further information.

Yours sincerely

Feyi Akindoyeni  
**President**  
(Partner – SEC Newgate Australia)  
[feyi@newgatecomms.com.au](mailto:feyi@newgatecomms.com.au)  
0403 540 912

Andrew Cox  
**Secretary**  
(Partner – GRACosway)  
[acox@gracosway.com.au](mailto:acox@gracosway.com.au)  
0499 599 008

## 1. About APGRA

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 members conducting government relations activity.

APGRA's aims are to:

- Promote high standards of government relations practice in Australia through the establishment and maintenance of a robust industry code of conduct;
- Protect, promote and advance the interests of government relations professionals on all issues affecting or likely to affect the Australian professional government relations industry;
- Complement existing regulation of government relations activity in Australia and provide a basis for regular dialogue between government and the profession; and
- Contribute to greater understanding of professional government relations in Australia, and the legitimate and important role the sector plays in a vibrant democratic system.

The centrepiece of APGRA is a Code of Conduct that regulates the behaviour of members and promotes high ethical standards within the government relations profession. The Code operates alongside the Queensland lobbying regulatory framework and similar legislation and codes in place around Australia, thereby creating the basis for a co-regulatory framework to maintain and further develop professional conduct.

Membership of APGRA is open to practitioners across all categories – including consultants, in-house practitioners at corporations and peak industry groups – provided they are able to satisfy and commit to the Code of Conduct and Membership Rules. Failure to do so is grounds for declining or cancelling membership, or applying other sanctions deemed appropriate.

APGRA works closely with governments and regulators across Australia to provide input on lobbying regulation and other matters relevant to our members. We have forged strong and productive relationships with the stakeholders who manage the integrity frameworks in key jurisdictions and regularly act as a sounding board on proposed regulatory changes.

## 2. Queensland's lobbying regulatory framework

APGRA continues to support the regulatory framework in place in Queensland which aims to ensure that contact between lobbyists and government and opposition representatives is conducted in an ethical and transparent way. We note that Queensland's lobbying regulatory framework is considered to be among the most robust in the country.

As it stands, the *Integrity Act 2009* (QLD) ('Integrity Act') prescribes a minimum standard of conduct for lobbyists by regulating contact with government and opposition representatives at state and local government levels. The Integrity Act is brought to life by the *Lobbyists Code of Conduct 2013* which provides further detail on the standards to which lobbyists must adhere in their interactions with government and opposition representatives. It is APGRA's view that Queensland's lobbying framework provides strong oversight of legitimate government relations activities and ensures that these activities continue to enhance good decision-making by public officials.

APGRA notes concerns that have been raised about the conduct of 'unregistered or incidental lobbyists' who are operating outside of the existing lobbying regulatory framework in Queensland. We also note that a series of changes to lobbying rules have been announced by the Queensland Government, in part to address this type of unregistered or incidental lobbying. The Government has also confirmed it will accept the recommendations set out in the final report of the *Review of culture and accountability in the Queensland public sector* ('Coaldrake Review').

As the national peak body for the professional government relations sector, APGRA supports the Queensland Government's intention to ensure those undertaking lobbying activities are appropriately registered and captured by the regulatory framework. We are committed to working constructively with the Queensland Government to further understand the practical implications of these changes and to help ensure our members are aware of their compliance and disclosure obligations. APGRA is also seeking to ensure that the new rules for lobbyists do not unduly add to the administrative burden on government, integrity bodies or registered firms, nor dissuade public officials from engaging with registered lobbyists.

### 3. Response to the Integrity and Other Legislation Amendment Bill 2022

APGRA is pleased to provide the following comments in response to the Bill.

#### Inadvertent unregistered lobbying

The Bill creates a new offence for unregistered lobbying by introducing a new section 71A of the Integrity Act. The proposed new section provides that 'a lobbyist (as defined in the Act) that is not a registered lobbyist must not carry out a lobbying activity for a third party client'.<sup>1</sup> APGRA seeks further clarity about the application of this new offence, particularly as it relates to inadvertent unregistered lobbying that may arise from a technical or administrative error.

APGRA's consulting members are highly focused on complying with the requirements for registration, as set out in the Integrity Act and the Lobbyists Code of Conduct 2013. We note that many of our members operate across multiple jurisdictions and are therefore required to manage differing registration requirements for up to seven other lobbyist registers in addition to Queensland. This is a considerable compliance burden, particularly noting that there are significant differences in lobbying rules, definitions and registration requirements across jurisdictions.

In addition, most jurisdictions have online portals that are used to manage requests to register lobbyists and clients. Our members have reported technical issues with all of these online portals – including the Queensland lobbyist portal – at one time or another. We note that there is potential for information about registered lobbyists and their clients to be unintentionally removed or modified without the lobbyist's knowledge.

Noting the challenges described above, we recognise that there could be circumstances where administrative or technical errors could result in a person unintentionally engaging in unregistered lobbying. For example, a situation may arise where a lobbyist who is registered in all other jurisdictions wrongly assumes that they are also listed on the Queensland lobbyist register and inadvertently engages in unregistered lobbying. Similarly, a simple miscommunication between two staff members about the status of a person's lobbyist registration could result in inadvertent unregistered lobbying, as could an error with the online lobbyist portal which causes a lobbyist's registration details to be removed or altered without their knowledge.

APGRA is concerned that the new offence for unregistered lobbying does not take into consideration the types of situations described above. As the section is currently drafted, there appears to be no way to distinguish between inadvertent unregistered lobbying by those who are making every effort to meet their compliance obligations and the deliberate, systematic attempts of some unregistered lobbyists who seek to operate outside the lobbying regulatory framework entirely. Given the significant penalties attached to the offence, APGRA views this as an important distinction.

---

<sup>1</sup> Explanatory note, Integrity and Other Legislation Amendment Bill 2022, p. 3  
<<https://documents.parliament.qld.gov.au/bills/2022/3117/Integrity-and-Other-Legislation-Amendment-Bill-2022---Explanatory-Notes-fd48.pdf>>

### Notification and right to respond

While we do not believe the Government is seeking to target inadvertent unregistered lobbying with this new offence, it is possible that this type of activity could be captured under section 71A of the Bill. APGRA recommends that the Government consider ways to clarify the application of the offence in situations like those described above.

One option may be to consider a warning system whereby a person who is alleged to have engaged in unregistered lobbying is notified of a potential breach by the Integrity Commissioner and given an opportunity to explain the circumstances. Notification by the Integrity Commissioner would require the person to be reminded of their obligation to register as a lobbyist while also making them aware that they will be penalised for any subsequent breach of section 71A. APGRA submits that this kind of warning system would also offer a way to sensibly differentiate between cases of inadvertent unregistered lobbying and the type of intentional, systematic unregistered lobbying we believe the Government is seeking to target with this new offence.

We note that a provision of this kind exists in the Federal Government's Lobbying Code of Conduct in circumstances where the Secretary of the Attorney-General's Department is seeking to remove a person from the lobbyist register for breaching the Code of Conduct. In these circumstances, the Secretary advises the person of the reasons for their proposed removal and provides them with an opportunity to 'state why the proposed course of action should not be followed'.<sup>2</sup>

While we acknowledge that the Federal context is quite different to Queensland, APGRA recommends that the Integrity Commissioner should be empowered to notify a person who is alleged to have engaged in unregistered lobbying prior to them being referred to law enforcement or integrity bodies. We also feel it would be prudent to offer the person a chance to respond to the allegations, once again noting the potential for administrative or technical errors that may give rise to inadvertent unregistered lobbying.

Without such a provision, a situation may arise where a person is completely unaware that they are alleged to have engaged in unregistered lobbying until they are charged with the offence. We do not believe this is fair or reasonable. The warning system described above could be one way to address these concerns.

### Reporting and enforcement of unregistered lobbying offence

APGRA seeks to clarify how reports of unregistered lobbying will be managed and substantiated under the new offence proposed in section 71A of the Bill. Given the significant penalties attached to this offence, we believe it is important that all stakeholders understand who will be able to make reports, to whom the reports will be made and how these types of reports will be managed and substantiated.

APGRA seeks clarification on whether reports of unregistered lobbying can only be made by government and opposition representatives, or potentially industry participants as well. We are concerned that in a highly competitive sector, it may be advantageous for certain parties to make unsubstantiated allegations about the conduct of competitors to gain a business advantage.

APGRA also seeks to clarify whether there are any mechanisms through which integrity bodies will seek to monitor and identify unregistered lobbying.

### Clarifying definition of 'lobbying activity'

APGRA submits that it is unclear from the definition of 'lobbying activity' in section 42 of the Integrity Act as to whether contacting government or opposition representatives for administrative purposes – such as scheduling or rearranging a meeting – constitutes 'lobbying activity'. We note that there

<sup>2</sup> Federal Lobbying Code of Conduct, Section 14(2)b <<https://www.ag.gov.au/system/files/2022-02/lobbying-code-of-conduct.PDF>>

is conflicting advice on this matter at present. The Lobbyists Code of Conduct stipulates that lobbying contact for purely administrative purposes is not required to be disclosed via the monthly contact log, which indicates that it does not fit the definition of 'lobbying activity'.<sup>3</sup> However a 'common questions' document on the Integrity Commission's website states that contact with a Minister's office to arrange a meeting is considered 'lobbying activity' if it results in the successful arrangement of a meeting.<sup>4</sup>

With the introduction of an offence for unregistered lobbying, APGRA seeks clarity on this matter to ensure that administrative or support staff who are not registered lobbyists are not inadvertently captured under section 71A of the Bill if they contact a government or opposition representative's office to arrange or cancel a meeting on behalf of a third-party client, for example. We recommend that the Government introduces an exclusion at section 42(2) of the Integrity Act to clarify that contact with government and opposition representatives for administrative purposes is not considered to be 'lobbying activity'.

On a related matter, APGRA also seeks clarity on whether contacting a government or opposition representative to request or clarify information is captured under the definition of 'lobbying activity' in section 42 of the Integrity Act. APGRA submits that general contact to request or clarify information about administrative and logistical matters should not be categorised as 'lobbying activity', noting that these types of requests do not involve efforts to influence government or opposition decision-making. At present, requests of this nature are being submitted to ministerial chiefs of staff via the formal lobbyist contact portal process, which is time-consuming and impractical for ministerial office staff – particularly for urgent and/or straightforward matters.

For context, typical requests of this nature could involve contact with a government or opposition representative to:

- Ask clarifying questions about a new policy, rule or regulation
- Ask whether a media release, statement or policy document is available
- Seek information about a government-initiated forum or event
- Clarify funding arrangements for a particular government/opposition announcement

APGRA submits that registered lobbyists should be able to contact a government or opposition representative with these types of questions and general requests for information without having to submit a formal request via the lobbyist contact portal. In these instances, registered lobbyists would still follow all of the other usual requirements for contact with government and opposition representatives, as set out in the Lobbyists Code of Conduct.

---

<sup>3</sup> Lobbyists Code of Conduct 2013, p. 7

<[https://www.integrity.qld.gov.au/assets/document/catalogue/general/lobbyists\\_code\\_of\\_conduct\\_Sept\\_2013.pdf](https://www.integrity.qld.gov.au/assets/document/catalogue/general/lobbyists_code_of_conduct_Sept_2013.pdf)>

<sup>4</sup> Lobbying: Common Questions & Answers 2021, p. 3 <<https://www.integrity.qld.gov.au/lobbyists/assets/lobbying-ganda.pdf?a>>

## Appendix A: APGRA Code of Conduct

### Introduction

The individual and firm members of the Association believe that government relations practitioners must be honest, open and transparent at all times in their dealings with government and clients, and are committed to high standards of integrity in the conduct of their businesses and activities.

This Code of Conduct has been developed by the Association to clearly articulate the professional and ethical framework for the way in which members relate to government in Australia. Members' primary obligations are to abide by the relevant legislation and government codes in place around Australia. It is intended that this Code will operate alongside those schemes, but in any and all cases of inconsistency, relevant legislation and government codes will prevail to the extent of that inconsistency.

Membership of the Association is open to any firm or person for whom the making of representations to government in Australia constitutes part of their professional activities, and who is prepared to abide by and implement this Code of Conduct and Membership Rules, and continues to comply with them on an ongoing basis.

This Code of Conduct covers the activities of members in their interaction with Australian governments at all levels. Members can include specialist government relations firms and their staff, professional communications firms that also offer government relations support as part of their services, 'in-house' and individual government relations practitioners as well as any other professionals who make representations to government.

It is a pre-requisite and condition of membership of the Association that members adopt and abide by this Code of Conduct, and that all practitioners involved in providing government relations services and making representations to government observe the duties and principles set out in the Code. Members will be required to renew their commitment to the Code each year as a condition of membership.

Failure to adopt and abide by this Code of Conduct and Membership Rules will be grounds for declining or cancelling membership of the Association, or other sanctions deemed appropriate and proportionate.

### Definitions

**"Consulting Practitioner"** means a Government Relations Practitioner who is engaged as a third party to Make Representations on behalf of an individual, a company or an organisation.

**"Client"** means an individual, association, organisation or business who:

- a) has engaged the Practitioner, or the organisation for whom the Practitioner works, on a professional basis to Make Representations to an Government Representative; or
- b) in relation to an 'in-house' Practitioner, means the Practitioner's employer.

**"Executive Role"** is any leadership, office-bearer, fundraising or decision-making role in a registered political party or associated entity but does not include ordinary membership of a political party.

**"Government Institutions"** includes Parliament, local government, the ministry, the bureaucracy, and government owned trading organisations.

**"Government Relations Practitioner"** or **"Practitioner"** is an individual who may be a person, body corporate, unincorporated association, or partnership who Makes Representations.

**"Government Representative"** means a Government Institution or a person elected to be a member of a Government Institution such as a Member of Parliament or local councillor as well as their staff, such as Ministerial staff, staff employed by a Member of Parliament, staff employed by a local or shire council, or staff employed in the public sector.

**“Lobbying Rules”** means rules established by legislation or a Government Institution to regulate lobbying or government relations practitioners or their activities. For an up to date list, see the Association’s website.

**“Making Representations”** includes substantive contact with a Government Representative for the purpose of influencing government decision-making including making or changing legislation, developing or amending policy or programs, the awarding of a tender, a grant or allocation of funding, and meeting or other requests, but does not include non-substantive matters such as requests for publicly available information or modifying logistical arrangements for a meeting.

**“Management Committee”** means the Management Committee of the Association or their designate.

#### Operation of this Code

1. This Code applies in respect of all circumstances in which a Government Relations Practitioner is Making Representations on behalf of a Client.
2. Any breach of this Code of Conduct will be dealt with in accordance with the Membership Rules and it is an obligation of membership that each member (and their relevant staff) is bound by those Rules.
3. This Code commences on 1 July 2014.

#### Professionalism

4. Practitioners will act with honesty and decency at all times towards Government Representatives.
5. Practitioners will not act in a manner detrimental to the reputation of the Association or the professional practice of government relations in general.
6. Practitioners will not engage in any conduct that is corrupt, dishonest or illegal.
7. Practitioners will use reasonable endeavours to satisfy themselves of the truth or accuracy of all statements made or information provided to Government Representatives and will exercise proper care to avoid giving false or misleading information.
8. Practitioners will diligently advance and advocate their Client’s interest.
9. Practitioners will devote time, attention, and resources to the Client’s interests that are commensurate with Client expectations, agreements, and compensation.

#### Interactions with Government

10. When interacting with Government Representatives, Practitioners will disclose on whose behalf they are acting, and will not misrepresent their interests.
11. Where the proposed or actual activities of a Client may be illegal, unethical or otherwise contrary to a Lobbying Rule or this Code, Practitioners will advise the Client accordingly and refuse to act in relation to the relevant activity.
12. Practitioners will not make misleading, exaggerated or extravagant claims regarding, or misrepresent, the nature or extent of their access to, or relationship with, Government Representatives, political parties, or members of political parties. This clause extends to claims of ‘guaranteed’ access to, or outcomes from, particular Government Representatives.

13. Practitioners will not offer or give, or cause a Client to offer or give, any financial or other incentive to any Government Representative that could be construed as a bribe or inducement.

#### Personal Political Activity

14. Practitioners will keep strictly separate their professional activities and any personal activity or involvement on behalf, or as a member, of a political party.
15. Practitioners will not serve in an Executive Role with a political party.
16. Practitioners will not play a senior management role in the conduct of an election campaign.

#### Employment of Government Representatives

17. Practitioners will not employ, or otherwise commercially engage, any current Government Representative.
18. Practitioners who were formerly elected Government Representatives will not, for a period of 18 months after they ceased to hold office, Make Representations on behalf of a client, with respect to any matter on which they had official dealings in the 18 months prior to leaving that role.
19. Practitioners, who were formerly non-elected Government Representatives will not, for a period of 12 months after they ceased their former role, Make Representations on behalf of a Client, with respect to any matter on which they had official dealings in the 12 months prior to leaving that role.

#### Compliance with Laws, Regulations and Rules

20. Practitioners will comply with any relevant Lobbying Rules and with this Code. Where any conflict exists between this Code and a Lobbying Rule, Practitioners must abide by the Lobbying Rule.
21. Practitioners will comply with any legislation, government resolution or rule relating to donations to political parties and any other matter.
22. Practitioners will conduct themselves in accordance with the rules of parliament or any other Institution of Government while within their precincts (including rules relating to any access pass that might have been issued to them).
23. Practitioners will abide by the rules for obtaining, distribution and release of parliamentary and governmental documents.
24. Practitioners will not obtain information from Government Representatives by improper or unlawful means.
25. Practitioners will not cause a Government Representative to breach any law, regulation or rule applicable to them.

#### Obligations Only Applying to Consulting Practitioners

26. Consulting Practitioners will have a written agreement with their Client regarding the terms and conditions for their services, including the amount of and basis for compensation.



27. The fees charged by a Consulting Practitioner will be reasonable, taking into account the facts and circumstances of the engagement.
28. Upon termination of their relationship, Consulting Practitioners will take steps to the extent reasonably practicable to protect a Client's interests, such as giving reasonable notice to the Client, allowing time for employment of another Practitioner, and surrendering papers and property to which the Client is entitled.
29. Consulting Practitioners will indicate to their Clients their membership of the Association, and the existence of obligations under this Code and the Lobbying Rules.
30. Consulting Practitioners will avoid conflicts of interest in Making Representations on behalf of a Client to a Government Representative.
31. Consulting Practitioners will disclose any known conflict of interest to their relevant Clients and resolve the conflict issue promptly.