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Director Corruption Strategic Intelligence
Influencing Practices
Crime and Corruption Commission
GPO Box 3123
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By email: InfluencingPractices@ccc.qld.gov.au

Dear Barry

The Australian Professional Government Relations Association (APGRA) welcomes the opportunity to provide feedback on the Crime and Corruption Commission's ('CCC') review of influencing practices in Queensland.

APGRA is a 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.

Our consulting members also operate in accordance with the *Integrity Act 2009* (QLD), the Lobbyists Code of Conduct and the disclosure obligations associated with the public Lobbyists Register, and we believe this regulatory framework is generally fit for purpose.

We understand the intention of the CCC's review is to broadly explore the nature and extent of influence and access to government and public sector decision-makers in Queensland. In addition, we understand the CCC is investigating corruption risks that may arise from certain influencing practices, while also assessing the adequacy of Queensland's integrity regime to mitigate against these risks.

APGRA notes that a broad suite of changes to lobbying rules have recently been announced by the Queensland Government. The Government has also accepted the recommendations made in the final report of the *Review of culture and accountability in the Queensland public sector* ('Coaldrake Review'). APGRA is committed to working constructively with the Government to further understand how these measures will be implemented and their practical implications 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 practitioners do not unduly add to the administrative burden on government, integrity bodies or registered firms, nor dissuade public officials from engaging with registered government relations practitioners.

We recognise that the community rightly expects the highest level of propriety in the interactions between government relations practitioners and government representatives and public officials. APGRA members are eager to ensure there is a high level of public confidence in the conduct of professional government relations practitioners.

The attached submission outlines APGRA's position on key issues canvassed in the CCC's discussion paper, *Influencing Practices in Queensland: Have your say*.

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

Yours sincerely

Executive Committee
Australian Professional Government Relations Association

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.

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 'professional 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 regulatory framework for lobbying provides strong oversight of legitimate government relations activities and ensures that these activities continue to enhance good decision-making by public officials.

APGRA notes recent concerns raised in the public domain regarding the work of 'unregistered or incidental lobbyists' who are not captured under the existing regulatory framework. We also note concerns about the activities of a small number of individuals who have been involved in managing political campaigns and also engaging in lobbying and advocacy. This type of 'dual-hatting' is prohibited under APGRA's Code of Conduct.

Since the release of the CCC's discussion paper, a series of changes to lobbying rules have been announced by the Queensland Government to address the types of concerns described above. The Government has also confirmed it will accept the recommendations set out in the final report of the Coaldrake Review.

As the national peak body for the professional government relations sector, APGRA is 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. Further comment on these matters is provided below.

3. About the industry

Lobbying is a legitimate undertaking in a free and open democratic society. Government relations practitioners play an important role in our representative system of government. Individuals and organisations can and do approach government directly. Some, however, use experts to advise them. Professional government relations practitioners use their knowledge and experience to help corporations, associations, charities and other not-for-profit organisations interact effectively with, and navigate the processes of, government.

Professional government relations practitioners provide their clients with advice and assistance that enhances the flow of information and ideas between government and private companies, industry bodies and the not-for-profit sector. This is not only of benefit to non-government parties but, importantly, can expose government to new ideas and opportunities beneficial to the broader community.

Despite the benefits delivered through professional government relations, 'lobbying' frequently attracts a negative connotation, and is seen by some as a method through which 'big business' inappropriately seeks to influence government for narrow commercial benefit. APGRA rejects the substance of this assertion but accepts that the profession's efforts to date have not been effective in explaining and demystifying the practice of government relations.

APGRA notes that professional government relations practitioners, whether they act for third parties or are in-house, are typically involved in a range of activities that are substantially broader than simply direct advocacy (which is a common understanding of the term 'lobbying'). Some basic elements of a government relations practitioner's activities include:

- Understanding the business and priorities of the organisation they are advising as well as the specific objectives they may have in an area of public policy.
- Researching, and advising organisations on, current policy settings in areas of interest to them and potential trends in the development of policy by government (e.g. based on changes in other jurisdictions).
- Assisting the organisation to formulate 'the case' they intend to put forward to government in relation to legislation, a government/parliamentary policy inquiry or another matter. This often involves factoring in existing policy settings as well as casting a critical eye over the organisation's arguments and the justification/evidence they propose to put forward.
- Advising the organisation on relevant government portfolio/agency responsibilities (i.e. who they ought to be engaging with in government) as well as relevant government and parliamentary processes.
- Assisting in the formulation of the organisation's public policy submissions and correspondence to government.
- Monitoring ongoing developments in public policy, parliament and the broader public discourse of relevance to the organisation's activities.
- Lobbying or advocacy activities that include coordinating logistical arrangements for government stakeholder meetings on the organisation's behalf and, in many cases, attending these meetings and undertaking relevant follow-up.

As this list demonstrates, the work of professional government relations practitioners is much broader than direct engagement with government. APGRA sees an important distinction between the work of registered professional government relations practitioners and those individuals who seek to exert improper influence over government decision-makers.

APGRA views the role of professional government relations practitioners as similar to that of other providers of professional services such as lawyers, engineers or accountants. APGRA members provide strategic advice to clients, assisting them to assess opportunities and understand and interpret the political landscape. Our members also help their clients – who may not be familiar with government – to understand how government processes and systems work and how they might be able to participate in these processes. This specialist professional advice is similar to that provided by lawyers, accountants and engineers who help their clients to understand and navigate technical processes in different sectors.

4. Response to CCC discussion paper

APGRA is pleased to provide the following comments in response to issues raised in the CCC's discussion paper.

a. Fairness and equity in access to decision-makers

APGRA believes that equity of access to government decision-makers is important in a democratic society. We note the significant contribution that new technologies have made over recent years in both broadening the distribution of government information and enhancing opportunities for participation in the democratic process.

The discussion paper questions the extent to which individuals or groups are refused or limited access to government representatives if they do not engage a lobbyist. We would like to offer an alternative viewpoint on this matter. In the experience of APGRA members, there have been several instances where government representatives have been reluctant to engage with a registered practitioner due to uncertainty around lobbying rules. In those instances, the perverse situation arises where a registered practitioner is disadvantaged by the fact of being registered and compliant under the Lobbyists Code of Conduct. This raises concerns about fairness and equity in access to decision-makers.

To address the types of situations described above, APGRA recommends regular briefings for government and opposition representatives to outline the purpose of the Lobbyists Code of Conduct and the associated reporting obligations. We believe this approach would help to dispel any confusion or misunderstanding and avoid well-intentioned government and opposition representatives and public sector officers from declining contact with registered practitioners who are complying with regulations.

Without this type of ongoing education about lobbying rules, APGRA is concerned that engagement with decision-makers may instead start taking place through informal channels (e.g. via political parties and fundraising events), as opposed to formal channels (e.g. in response to a written meeting request to a Minister's office). This would further undermine the principles of fairness and equity in access to decision-makers as well as the intent of transparency behind these regulations.

Further, APGRA supports additional resourcing for integrity bodies to manage the increased compliance activity that will likely arise from changes to lobbying regulations. In particular, it is critical that registered firms are able to efficiently meet their obligations to register clients and lobbyists on the Lobbyists Register in a timely manner. This will enable registered firms to comply with their obligations and will also support equity in access to decision-makers by preventing delays in the approvals required to engage with government and opposition representatives.

b. Management of conflicts of interest

The management of conflicts of interest is a key issue raised in the discussion paper. The situation where former government and opposition representatives go on to engage in lobbying and advocacy activities is highlighted in the discussion paper as a particular area of concern.

APGRA notes that Queensland has some of the strictest 'cooling off' periods in the country for former government and opposition representatives. As set out in the Integrity Act, former senior government and opposition representatives are restricted for a period of two years from engaging in lobbying activities relating to matters on which they had official dealings in their last two years in office.¹

We believe these restrictions are fair and reasonable. It is important that any restriction of this kind is reasonable and proportionate, bearing in mind that individuals should not be unduly constrained from securing employment. We think the two-year restraint period represents a reasonable balance. Logically, these restraints should apply regardless of whether a person works in a consulting or in-house role.

APGRA notes that conflicts of interest may arise where there is insufficient separation between practitioners' professional activities and their political party involvement. We note that the Coaldrake Review has recommended the explicit prohibition of lobbyists 'dual-hatting' as political campaigners. APGRA supports this recommendation which is consistent with our Code of Conduct. We have provided a view on its practical implementation, as outlined below.

The APGRA Code of Conduct serves to ensure separation between practitioners' professional activities and political party involvement through a requirement that members will not serve in an Executive Role with a political party or play a senior management role in the conduct of an election campaign. An 'Executive Role' is defined as any leadership, office-bearer, fundraising or decision-making role in a registered political party or associated entity, however does not include ordinary membership of a political party.

APGRA views this approach as a reasonable way to create appropriate lines of separation between practitioners' professional activities and their political party involvement. It also contributes to members of the public having trust and confidence in the activities of professional government relations practitioners.

c. Transparency and disclosure provisions

The discussion paper raises questions about transparency around the types of outcomes that practitioners are seeking in their engagement with government representatives. The discussion paper also contends that the information disclosed by practitioners via the monthly contact log does not offer sufficient detail about the types of outcomes being sought through engagement with government.

It is important to note that government relations practitioners and their clients are not always seeking a specific outcome or decision when engaging with public officials. The purpose of the engagement may be to understand how a government policy or regulation applies to a particular company, or to share information about an organisation's contribution to the State in terms of employment or investment in infrastructure.

For example, during the height of the COVID-19 pandemic, APGRA members assisted their clients to engage with government to clarify complex and rapidly changing public health directions and restrictions. The purpose of this engagement was to ensure that organisations – including those in

¹ *Integrity Act 2009* (QLD) s 70.

the retail, hospitality and leisure sectors – were fully compliant with government regulations, in the interest of public safety.

Government relations practitioners also assist their clients to engage with legislative and statutory decision-making processes which are open to public (and sometimes multi-stage) consultation, for example through policy discussion papers, parliamentary inquiries and exposure draft legislation.

It is also correct to say that there are occasions when a non-government party may seek to introduce an idea, proposal or service to government that is of commercial value to that party vis a vis its competitors. In this scenario, APGRA believes it is legitimate for this to be undertaken on a confidential basis – indeed, it is in the public interest because it encourages the free flow of ideas while also protecting clients' intellectual property and commercial interests.

We note that the Coaldrake Review has recommended changes to the Queensland contact log system, including removing the drop-down menu in favour of a requirement for lobbyists to provide a short description of the purpose and intended outcome of contact with government. APGRA believes that consideration should be given to the disclosure requirements for genuinely commercially confidential and market sensitive matters. We are concerned that inadequate provisions for the protection of clients' confidentiality may have the unintended consequence of driving lobbying activity 'underground'.

APGRA is also of the view that removing the drop-down menu on the contact log may actually result in the disclosure of *less* information about a particular contact with government or opposition representatives. This is because registered firms will have the ability to input their own description, presumably into a free-text field. This approach would require a considerable level of oversight by Integrity Commission officials to review the description for each entry and contact the registered firm for further information where required. A possible solution may involve the Integrity Commission providing example descriptions which can be used as models for registered firms.

The CCC's discussion paper also refers to the types of benefits that individuals or companies receive for securing access to, or influence over, government decision-makers. APGRA notes that success fees are prohibited under the Integrity Act, which also attaches serious penalties for non-compliance. Similar bans on success fees exist in most other Australian jurisdictions and are well-understood by professional government relations practitioners. This means that registered firms cannot set a fee or seek a reward which is contingent on the outcome of lobbying or advocacy activity. APGRA believes the ban on success fees is an effective deterrent against the provision of inappropriate incentives for lobbying and advocacy activities.

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.