

ELECTORAL FUNDING AND DISCLOSURE REFORM BILL LIKELY TO IMPACT ON CHIA

Issue:

New Federal Government legislation which aims to prevent foreign donors from having undue influence in Australian politics will also impact on charities such as CHIA, state peaks and community housing organisations which spend \$100,000 a year on political advocacy.

Background:

The legislation is designed to tighten laws on allowable donations to 'registered political campaigners' and to political entities (parties, candidates, and organisations associated with a party). Organisations, including charities, will have to register as 'political campaigners' if they spend more than \$100,000 a year on political purposes. They will also need to supply details of directors and senior staff including their membership of registered political parties. Civil penalties can apply to someone who incurs political expenditure without being appropriately registered. Organisations will also have to keep records to show whether donations of more than \$250 were from "allowable donors" (generally an Australian citizen or permanent resident).

The key clause in the *Electoral Funding and Disclosure Reform Bill* defines **political purpose** to mean any of the following purposes:

- (a) the public expression by any means of views on a political party, a candidate in an election or a member of the House of Representatives or the Senate;
- (b) the public expression by any means of views on *an issue that is, or is likely to be, before electors in an election* (whether or not a writ has been issued for the election);
- (c) the communicating of any electoral matter;
- (d) the broadcast of political matter (other than political broadcasts covered by the Broadcasting Services Act 1992); and
- (e) the carrying out of an opinion poll, or other research, relating to an election or the voting intentions of electors.

Exceptions will be made for views expressed in the media, in research, or for 'genuine satire' or artistic purposes.

If the Bill is passed into law, CHIA will have to register as a "political campaigner" if it spends more than \$100,000 a year on advocacy (including amounts spend by CHIA' state branches on advocacy on local issues). The immediate impact will be extra record-keeping and a requirement to supply an annual return within 16 weeks of the end of the financial year which includes;

- Details of directors and senior staff including membership of political parties;
- Details of grants, contracts, payments and other benefits from the commonwealth, State or territory government which require discretionary decision-making
- An auditor's report, and
- A signed statement that any foreign donations have not been used for domestic political purposes.

This will also apply to state peak bodies such as NSWFHA, CHIA Vic, CHPs for Qld and CHCSA and their advocacy on state and territory issues – and it will apply to some of our larger member organisations which engage with government on public policy issues.

The Bill also comes at a time when the government has elsewhere indicated that it wishes to remove charitable status from organisations whose sole focus is environmental advocacy, for example. Loss of PBI status would potentially increase CHIA's staff costs by around \$50,000 a year and other operating costs by around 10,000 a year.

The charity sector, led by ACOSS, has lobbied strongly against the Bill under the "Hands Off Our Charities" banner. ACOSS is concerned not just about the administrative burden posed by the Bill on charities but also on wider implications of defining charities as "political campaigners" under federal law and on charities which take part in global alliances (see attached briefing note). ACOSS has called for all registered charities to be exempted from the Bill's reporting and disclosure requirements.

There is however a strong public policy argument in favour of seeking to limit the influence of foreign actors on Australia's democratic system. This is a complex area of law and the Commonwealth may be reluctant to exempt all charities from the Bill. Indeed, an exemption for all charities might also be counterproductive by increasing the pressure on the system of regulation of charities to limit the influence of foreign interests on Australia's democratic system.

Accordingly, CHIA has adopted a balanced response in its submission, arguing that the Bill needs further considerations, and that there is a strong case for exempting charities which receive no or small foreign donations from the Bill's registration and disclosure requirements. This could be simply verified as a part of each charity's annual return to the ACNC.

Action: The attached letter has been lodged with the Joint Standing Committee on Electoral Matters. The committee will report to Parliament by 6 March 2018.