



16 February 2024

Committee Secretary  
Senate Finance and Public Administration References Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600

### **Inquiry into Access to Australian Parliament House by Lobbyists**

Dear Secretary,

The Centre for Public Integrity thanks the Committee for the opportunity to make a submission to its inquiry into access to Australian Parliament House by lobbyists.

The Centre is a non-partisan think tank led by integrity experts from academia, public policy, and the judiciary.

While we recognise that lobbying has the potential to play a legitimate role in policy-making by allowing various groups in the community to inform lawmakers and enhance the operation of democratic processes, the current lack of appropriate regulation unacceptably erodes the integrity of government in fact and in the eyes of the public.

Through its focus on the current transparency arrangements relating to the Australian Government Register of Lobbyists, as well as the sponsored pass system for lobbyists, the Committee's inquiry provides an important opportunity to finally begin to remedy the grave limitations of the Commonwealth lobbying regime.

Our submission, which includes fresh analysis illustrating the nexus between lobbying and political donations, proposes a Five Point Lobbying Reform Plan to put a stop to the improper influence of lobbyists over the exercise of public power.

We would be pleased to provide any further information that might assist the Committee in its work.

Sincerely,

**Dr Catherine Williams**  
Executive Director

**Mahalia McDaniel**  
Researcher

## Money and influence

It goes without saying that the practice of lobbying does not occur in a vacuum. In reality, the ways in which lobbying organisations and peak industry bodies engage with government include the **transfer of large sums of money** through political donations.

Throughout this analysis, when we refer to 'lobbying' we do not mean merely the kind of lobbying currently captured by the Commonwealth's regulatory regime. Rather, we mean **actual lobbying** – that is, any attempt to influence the decision-making of parliamentarians – regardless of whether it is undertaken by a third-party lobbyist, an in-house lobbyist, a peak body or a not-for-profit organisation.

New analysis conducted by the Centre for Public Integrity shows the extent to which those who lobby **also donate to the major political parties**,<sup>1</sup> with some \$43.5 million disclosed by the industry since 1998/99.<sup>2</sup>

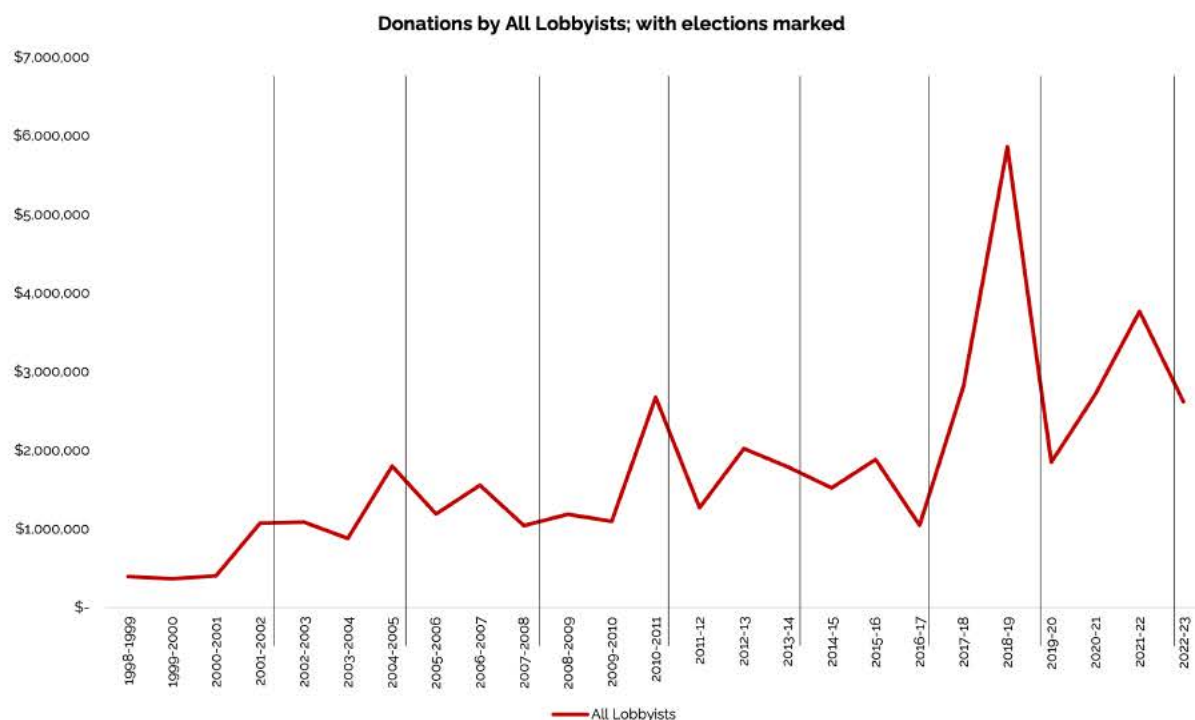
As Figure 1 shows, outside of election years lobbyist donations have been substantially increasing over the past 25 years, with the value of donations growing from \$400,315 in 1998/99 to \$2,624,135 in 2022/23. This amounts to an increase in real terms of 555%.

In more recent years there have been large increases leading up to elections, with donations increasing in value from \$2,818,026 in 2017/18 to \$5,862,627 in 2018/19, and from \$2,721,036 in 2020/21 to \$3,771,544 in 2021/22.

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<sup>1</sup> Disclosures made on the Australian Electoral Commission's Transparency Register since 1998/99 can, in many cases, be classified according to donor industry. Our classification system uses a template based on the Democracy4Sale classification (which is maintained by staff within the NSW Greens Party), supplemented or corrected where appropriate. One category by which we classify donors is 'Advocacy/Peak body/Lobbyist'. While this process is broadly reliable, it is also, to a certain extent, approximate and subjective. It is further complicated by the issue of cross-industry classification, and some entities' changing industry involvement over time.

<sup>2</sup> The data used for this analysis come from the Australian Electoral Commission's donations database, which records payments disclosed in accordance with the *Commonwealth Electoral Act 1918* (Cth). All monetary amounts have been converted to 2022/23 constant ('real') dollars. The data include moneys declared as 'donations', 'other receipts', subscriptions and other 'unspecified' income. Capital transfers, public funding, bank and other loans, other government grants (such as political development grants) and intra party transfers have been excluded where we have been able to identify them. For an explanation of how we classify entities and individuals as lobbyists, see page 7 of this submission.



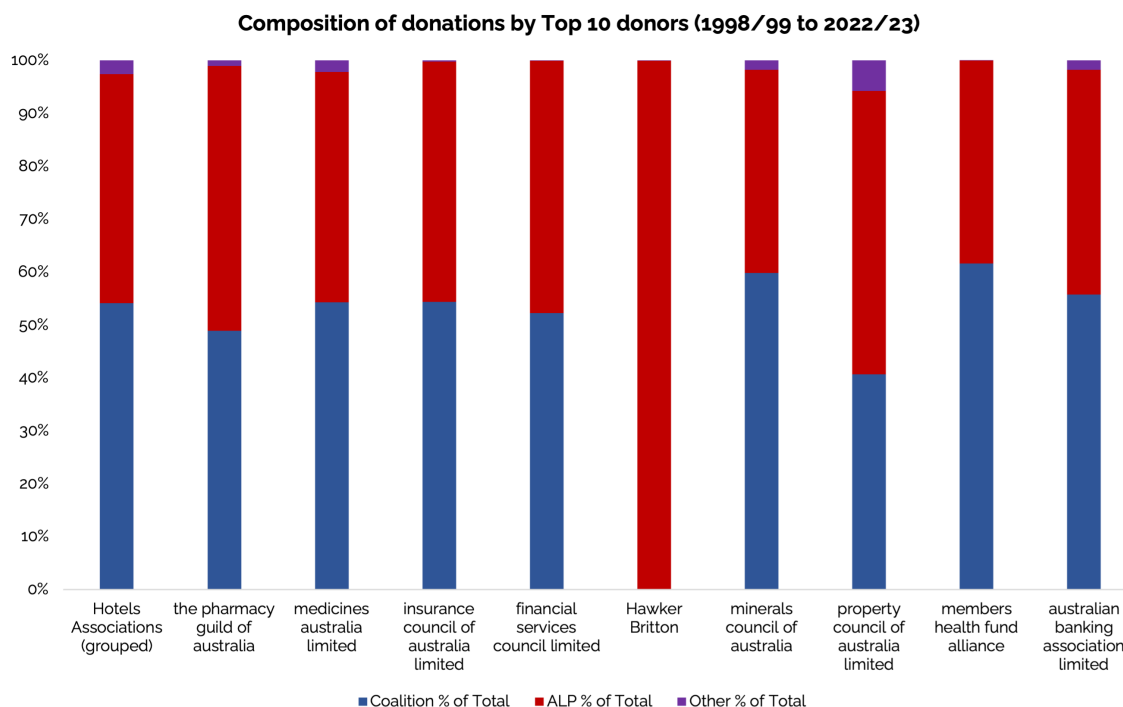
**Figure 1. Total Donations Made by Lobbyists (1998/99 to 2022/23)**

| Rank | Entity                                 | Value           |
|------|--|-----------------|
| 1    | Hotels Associations (grouped)          | \$14,690,186.00 |
| 2    | The Pharmacy Guild of Australia        | \$6,593,842.00  |
| 3    | Medicines Australia Limited            | \$2,581,295.00  |
| 4    | Insurance Council of Australia Limited | \$1,638,092.00  |
| 5    | Financial Services Council Limited     | \$1,406,971.00  |
| 6    | Hawker Britton Pty Ltd                 | \$1,365,995.00  |
| 7    | Minerals Council of Australia          | \$1,252,071.00  |
| 8    | Property Council of Australia Limited  | \$1,058,943.00  |
| 9    | Members Health Fund Alliance           | \$973,956.00    |
| 10   | Australian Banking Association Limited | \$773,912.00    |

**Table 1. Top 10 Lobbyist Donors by Value (1998/99 to 2022/23)**

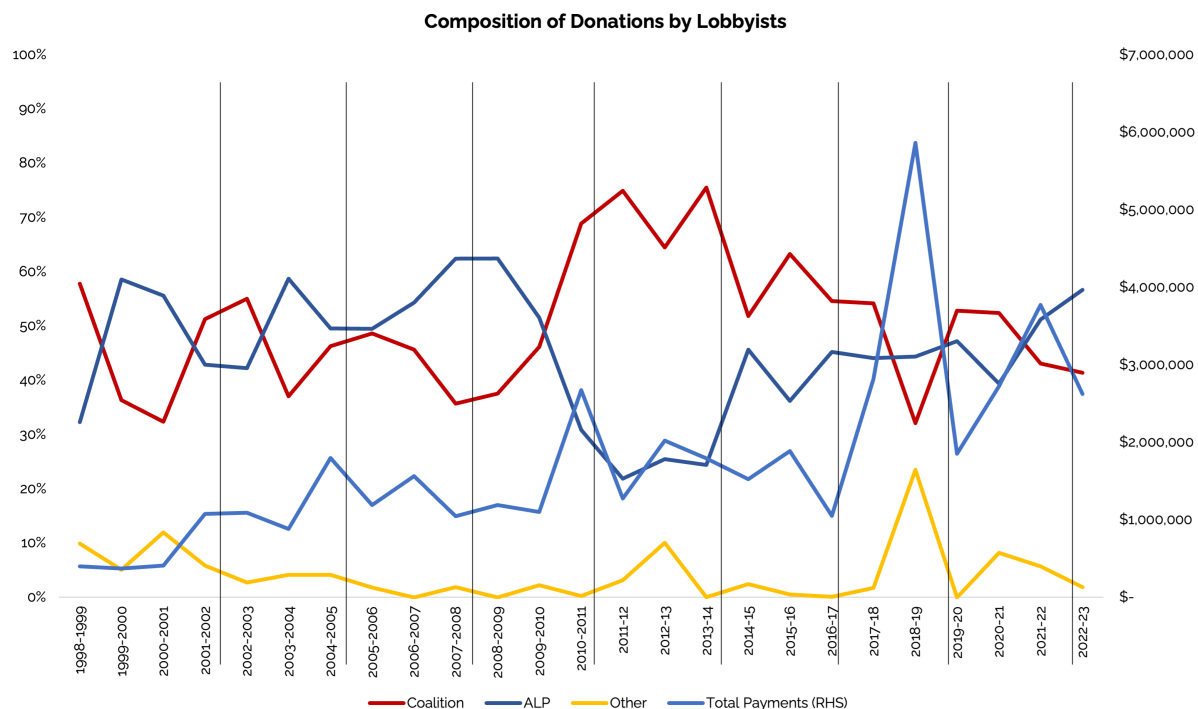
### Distribution of donations

Our analysis found that lobbyists typically donate broadly similar amounts to the two major parties. Figure 2, which reveals how the top 10 lobbyist donors (by value) distributed their donations, shows a lack of partisanship on the part of all except Hawker Britton that suggests donations are oriented towards securing access to the political process itself (see Figure 2). Further support for this conclusion was found when considering the chronological trends in lobbyist donations against the backdrop of election years (see Figures 1 and 3).



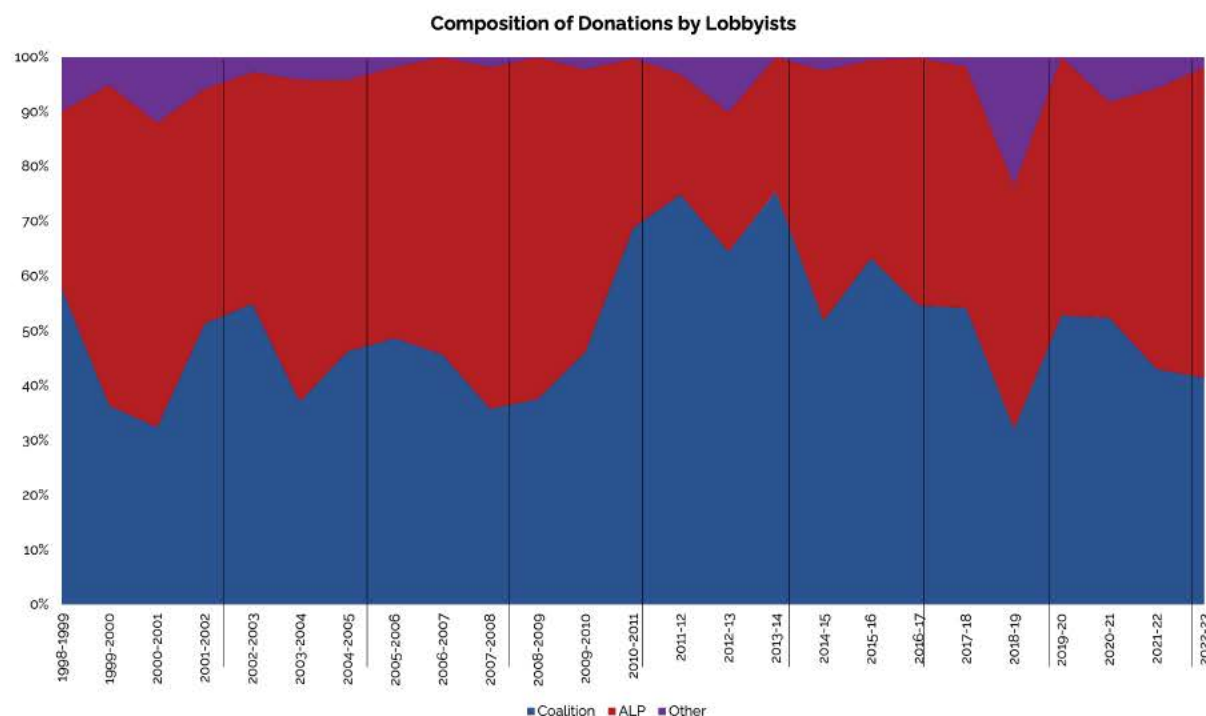
**Figure 2. Composition of Donations from Top 10 Lobbyist Donors (1998/99 to 2022/23)**

Figure 3, which reveals the distribution of aggregate top 10 lobbyist donations over the period studied, suggests that the proportion of donations going to the Coalition and the ALP are typically fairly equal, with the two major political forces regularly interchanging their status as dominant recipient of lobbyist funds. It also shows that the spike in donations to other parties or independents coincided with the large evident in the 2018/19 election year.



**Figure 3. Top 10 Lobbyists Donors by Party and Against Election Years (2022/23)**

Figure 4 shows that the majority of lobbyist donations has to-date been split fairly evenly between the Coalition and the ALP. The share received by other parties or independents typically ranged between 0-10% over the period analysed, but peaked at 23.5% of donations (by value) in 2018/19.



**Figure 4. Top 10 Lobbyist Donors (All Parties) and Election Years (1998/99 to 2022/23)**

### Analysis of 2022/23 donations disclosures

We have also examined in detail the 2022/23 donations disclosures published by the Australian Electoral Commission on 1 February 2024, to provide insights in respect of recent lobbyist donating behaviour. Table 2 reveals the top 10 lobbyist donors for 2022/23, while Table 3 shows how those donors distributed their donations.

| Rank | Entity                                   | Value        |
|------|--|--------------|
| 1    | The Pharmacy Guild of Australia          | \$355,780.00 |
| 2    | Hotels Associations (grouped)            | \$285,867.00 |
| 3    | Medicines Australia Limited              | \$255,096.00 |
| 4    | Minerals Council of Australia            | \$231,080.00 |
| 5    | Australian Trucking Association Ltd      | \$150,000.00 |
| 6    | Australian Automotive Dealer Association | \$106,725.00 |
| 7    | Insurance Council of Australia Limited   | \$101,650.00 |
| 8    | Master Builders Australia Ltd            | \$100,000.00 |

**Table 2. Top 10 Lobbyist Donors (2022/23)**



|                      | The Pharmacy Guild of Australia | Hotels Associations (grouped) | Medicines Australia Limited | Minerals Council of Australia | Australian Trucking Association Ltd |
|----------------------|---------------------------------|-------------------------------|-----------------------------|-------------------------------|-------------------------------------|
| ALP                  | \$187,650.00                    | \$157,739.00                  | \$123,000.00                | \$84,700.00                   | \$88,000.00                         |
| LPA                  | \$105,130.00                    | \$93,826.00                   | \$116,271.00                | \$107,430.00                  | \$30,000.00                         |
| NPA                  | \$63,000.00                     | \$33,897.00                   | \$15,825.00                 | \$37,450.00                   | \$32,000.00                         |
| LNPQ                 | \$0.00                          | \$405.00                      | \$0.00                      | \$0.00                        | \$0.00                              |
| Sum of Coalition     | \$168,130.00                    | \$128,128.00                  | \$132,096.00                | \$144,880.00                  | \$62,000.00                         |
| Other                | \$0.00                          | \$0.00                        | \$0.00                      | \$1,500.00                    | \$0.00                              |
| ALP % of Total       | 52.7%                           | 55.2%                         | 48.2%                       | 36.7%                         | 58.7%                               |
| Coalition % of Total | 47.3%                           | 44.8%                         | 51.8%                       | 62.7%                         | 41.3%                               |
| Other % of Total     | 0.0%                            | 0.0%                          | 0.0%                        | 0.6%                          | 0.0%                                |

|                      | Australian Automotive Dealer Association | Insurance Council of Australia Limited | Master Builders Australia Ltd | Nexus Apac Pty Ltd | Australian Banking Association Limited |
|----------------------|--|--|-------------------------------|--------------------|--|
| ALP                  | \$47,600.00                              | \$70,550.00                            | \$77,000.00                   | \$42,967.00        | \$41,500.00                            |
| LPA                  | \$46,300.00                              | \$31,100.00                            | \$11,000.00                   | \$41,545.00        | \$35,640.00                            |
| NPA                  | \$12,825.00                              | \$0.00                                 | \$12,000.00                   | \$0.00             | \$0.00                                 |
| LNPQ                 | \$0.00                                   | \$0.00                                 | \$0.00                        | \$0.00             | \$0.00                                 |
| Sum of Coalition     | \$59,125.00                              | \$31,100.00                            | \$23,000.00                   | \$41,545.00        | \$35,640.00                            |
| Other                | \$0.00                                   | \$0.00                                 | \$0.00                        | \$0.00             | \$0.00                                 |
| ALP % of Total       | 44.6%                                    | 69.4%                                  | 77.0%                         | 50.8%              | 53.8%                                  |
| Coalition % of Total | 55.4%                                    | 30.6%                                  | 23.0%                         | 49.2%              | 46.2%                                  |
| Other % of Total     | 0.0%                                     | 0.0%                                   | 0.0%                          | 0.0%               | 0.0%                                   |

Table 3. Distribution of Top 10 Lobbyist Donors' Dollars (2022/23)

## Scope of regulatory regime

We have, for the purposes of this submission, undertaken additional data analysis using the Australian Electoral Commission's Transparency Register, and the Australian Government Register of Lobbyists.<sup>3</sup>

Specifically, we have compared our industry classification of lobbyist donations for 2021/22 and 2022/23 against data from the Australian Government Register of Lobbyists, for which only third-party lobbyists are required to register, in order to provide some sense of how many 'actual' lobbyists fall outside of the scope of the current regulatory regime (of course, our analysis only permits identification of actual lobbyists where they have disclosed a donation at some point in the last two financial years). To avoid doubt, we do not imply that any of these unregistered entities is required to register under the current regime.

At Table 4, '**Actual**' represents donations by entities and individuals we have identified as *actual* lobbyists, as well as entities and individuals registered on the Lobbyist Register. By

<sup>3</sup> The data we have used was downloaded from the Register on 5 February 2024, and the analysis treats all entities and lobbyists registered as lobbyists on that date as lobbyists for the entire period analysed.

contrast, '**Registered**' represents only donations from lobbyists registered on the Register of Lobbyists. The difference in both the *value* of donations and *number* of donors is very substantial.

| Total by Year                        | 2021/22     | 2022/23     |
|--------------------------------------|-------------|-------------|
| Actual                               | \$3,771,544 | \$2,624,135 |
| Registered                           | \$420,408   | \$366,160   |
|                                      |             |             |
| Number of Actual Lobbyist Donors     | 40          | 32          |
| Number of Registered Lobbyist Donors | 6           | 9           |

**Table 4. Comparison of Donations by Actual Lobbyists and Registered Lobbyists**

Table 5 contains a comparison of entities currently registered as lobbyists on the Register of Lobbyists with those donors we identified as actual lobbyists who made donations disclosures in 2022/23.

| Actual Lobbyist Donors                         | Lobbyist Registration Status |
|--|------------------------------|
| Australian Automobile Association              | X                            |
| Australian Automotive Dealer Association       | X                            |
| Australian Banking Association Limited         | X                            |
| Australian Finance Industry Association        | X                            |
| Australian Forest Products Association         | X                            |
| Australian Hotels Association - Federal Office | X                            |
| Australian Hotels Association (N.S.W.)         | X                            |
| Australian Hotels Association (SA branch)      | X                            |
| Australian Investment Council Limited          | X                            |
| Australian Owned Contractors Limited           | X                            |
| Australian Trucking Association Ltd            | X                            |
| Barton Deakin Pty Ltd                          | ✓                            |
| BB Win Win Outcomes                            | ✓                            |
| Corporate Affairs Australia Pty Ltd            | ✓                            |
| Council of Australian Life Insurers (Cali)     | X                            |
| Financial Services Council Limited             | X                            |
| Insurance Council of Australia Limited         | X                            |
| John Connolly and Partners Pty Ltd             | X                            |
| Master Builders Australia Ltd                  | X                            |
| Medicines Australia Limited                    | X                            |
| Members Health Fund Alliance                   | X                            |
| Minerals Council of Australia                  | X                            |
| National Advisory Pty Ltd                      | ✓                            |
| Nexus APAC Pty Ltd                             | ✓                            |
| PremierNational Pty Ltd                        | ✓                            |

|  |   |
|--|---|
| Pyne and Partners Pty Ltd                        | ✓ |
| SAS Consulting Group Pty Ltd                     | ✓ |
| SEC Newgate Pty Limited                          | ✓ |
| Shooters Union QLD Pty Ltd                       | X |
| Tech Council of Australia                        | X |
| The Pharmacy Guild of Australia                  | X |
| Urban Development Institute of Australia Limited | X |

**Table 5. Registration Status of Lobbyist Donors**

The exclusion of in-house lobbyists, peak bodies and advocacy groups is just one of the significant shortcomings of the current lobbying regulatory regime which our Five Point Lobbying Reform Plan (set out below) is designed to remedy.



## Five Point Lobbying Reform Plan

### 1. There must be a *Lobbying Code of Conduct* enshrined in legislation

The *Lobbying Code of Conduct* should be enshrined in legislation to incentivise compliance, deter breaches and increase the transparency of lobbying.

The *Code* should impose penalties for breaches, and refuse registration for those seeking it during the separation period. Enshrining the *Code* in legislation would bring the Commonwealth up to speed with Canada,<sup>4</sup> the United Kingdom,<sup>5</sup> and most of Australia's states.<sup>6</sup>

We note also that its current form of the *Code* renders it vulnerable to abolition, as the first lobbying regulations established in 1983 were in 1996 before being re-established in 2008.<sup>7</sup>

### 2. The definition of 'lobbying' must be expanded to capture all forms of influence, and 'lobbyist' be expanded to capture in-house lobbyists

The way in which 'lobbying' and 'lobbyist' are currently defined under the *Code* restricts the *Code's* application and undermines its effectiveness by capturing only communications made to a government representative in an effort to influence government decision-making.<sup>8</sup> Instead, the definition of 'lobbying' should be broadened to include any attempt to influence the decision-making of parliamentarians.

Currently, for a person to be regulated as a 'lobbyist', they must lobby on behalf of a third-party client.<sup>9</sup> 'In-house' lobbyists, or those who engage in lobbying on behalf of their employer, fall outside this definition. The definition of 'lobbyist' should thus be broadened to capture any person who engages in lobbying activity.

### 3. Transparency must be promoted via proactive publication of ministerial diaries with additional details required in respect of meetings with registered lobbyists

The sole transparency requirement for which the *Code* provides is the Register of Lobbyists.<sup>10</sup> The Register, in its current form, does not provide the degree of transparency that is necessary to restore confidence in government and its engagement with lobbyists. Meaningful scrutiny of lobbying could be facilitated by:

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<sup>4</sup> *Lobbying Act*, RSC 1985, c C-44.

<sup>5</sup> *Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014* (UK) pt 1.

<sup>6</sup> See, *Integrity Act 2009* (Qld) ch 4; *Lobbyists Act 2015* (SA); *Lobbying of Government Officials Act 2011* (NSW); *Integrity (Lobbyists) Act 2016* (WA). Cf *Lobbying Code of Conduct* (Tas); *Victorian Government Professional Lobbyist Code of Conduct* (Vic).

<sup>7</sup> John Warhurst, 'Locating the Target: Regulating Lobbying in Australia' (1998) 51(4) *Parliamentary Affairs* 538, 543–8.

<sup>8</sup> *Lobbying Code of Conduct* (Cth) cl 5(1) (definition of 'lobbying activities'). The definition includes further clarification as to the meaning of 'Government decision-making'.

<sup>9</sup> *Ibid* cl 5(2) (definition of 'lobbyist').

<sup>10</sup> *Ibid* cl 7.

- requiring the disclosure of the diaries of Ministers, Shadow Ministers, and their chiefs of staff; and
- expanding the information on the Register to include the dates and details of meetings between lobbyists and representatives.

Regular disclosure of ministerial diaries is well recognised as an important transparency mechanism. In December 2023, Victoria became the latest jurisdiction to mandate such disclosure,<sup>11</sup> joining New South Wales,<sup>12</sup> Queensland,<sup>13</sup> and the Australian Capital Territory.<sup>14</sup>

Greater transparency should also be secured by requiring more information as to the nature of meetings between public officials and lobbyists to be reported and made available on the Register. In Queensland, diary entries of meetings with lobbyists are required to include 'all details about all attendees and a short description of the subject matter of the meeting'.<sup>15</sup>

The regulation of lobbying should account for the wider integrity framework within which lobbying occurs by integrating the Register of Lobbyists and disclosure of lobbying activities with the disclosure of political donations and spending, and by resourcing the National Anti-Corruption Commission to provide annual analyses.

#### **4. The regime must be overseen by a well-resourced regulator, with sanctions expanded to include fines, criminal sanctions and potential barring from government contracts for serious breaches**

The Code should be overseen by an independent regulator rather than by the Attorney-General's Department. This regulator should be equipped with the powers and resources necessary to monitor and enforce compliance.

There should be a wider variety of sanctions than is currently available for breach of the Code, and the design of sanctions should be informed by the objective of incentivising compliance. Currently, lobbyists who fail to comply face mere de-registration.<sup>16</sup> At a minimum, the issuing of fines should be provided for (as in jurisdictions including South Australia,<sup>17</sup> Western Australia,<sup>18</sup> the United Kingdom<sup>19</sup> and Canada<sup>20</sup>).

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<sup>11</sup> Ministerial Code of Conduct (Vic) cl 5.3.

<sup>12</sup> Premier's Memorandum, *M2015-05-Publication of Ministerial Diaries and Release of Overseas Travel Information* (Qld).

<sup>13</sup> Department of the Premier and Cabinet (Qld), *Queensland Ministerial Handbook* (2024) [3.12].

<sup>14</sup> See *Freedom of Information Act 2016* (ACT) ss 23(1) (definition of 'open access information')(a)(iii), 24(1).

<sup>15</sup> Department of the Premier and Cabinet (Qld), *Queensland Ministerial Handbook* (2024) [3.12].

<sup>16</sup> Lobbying Code of Conduct (Cth) cl 14. Additionally, serious breach of the Code constitutes a basis on which a decision not to register a person may be made: s 13(2). 'Serious breach' is defined in s 6.

<sup>17</sup> *Lobbyists Act 2015* (SA) ss 5(1), 11(1), 14(1), 17.

<sup>18</sup> *Integrity (Lobbyists) Act 2016* (WA) ss 8(1), 24(1).

<sup>19</sup> *Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014* (UK) s 12(7).

<sup>20</sup> *Lobbying Act*, RSC 1985, c C-44, s 14(1).

Other sanctions should also be available in cases of sufficiently serious breach. For instance, criminal liability is provided for in South Australia<sup>21</sup> and Canada.<sup>22</sup> Other penalties likely to incentivise compliance by an industry dependent on access, like the forfeiting of parliamentary access passes and temporary barring from entry into government contracts, should also be considered.

**5. The post-employment separation must period be expanded to five years and include all Members of Parliament rather than just Ministers and ministerial staff**

The application, content, and duration of the post-employment restrictions established by the Code do not adequately address the unsettling yet common practice of former government representatives using the influence and network gained in their public positions to benefit private interests through lobbying.

Currently, Ministers, Parliamentary Secretaries, ministerial advisers, Defence Force Officers, and senior public servants are subject to the post-employment separation restriction.<sup>23</sup> This list of regulated persons should also include all Members of Parliament.

The post-employment separation period only prohibits lobbying activities relating to matters with which the regulated person had 'official dealings'.<sup>24</sup> Given that the development of influence and networks is not similarly limited, the 'official dealings' limitation should be removed.

Consistent with global best practice,<sup>25</sup> the current 12-and-18-month post-separation employment periods should be extended to 5 years in order to have the best chance of achieving their purpose of allowing in the influence and connections of the regulated to subside.

Regulated persons should also have a right to request a shorter period, on the basis of the length of employment, tenure and nature of their duties, by application to the National Anti-Corruption Commission.

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<sup>21</sup> *Lobbyists Act 2015* (SA) ss 5, 14.

<sup>22</sup> *Lobbying Act*, RSC 1985, c C-44, s 14(1).

<sup>23</sup> *Lobbying Code of Conduct* (Cth) cls 11, 2(1) (definition of 'public office holder').

<sup>24</sup> *Ibid* cl 11.

<sup>25</sup> *Lobbying Act*, RSC 1985, c C-44, s 10.11(1).

## **Additional improvements**

### **Eliminate success fees and gifts**

Unlike the approach taken in other jurisdictions,<sup>26</sup> the Code does not prohibit the payment of success fees. To the extent that success fees incentivise lobbyists to achieve their objectives through improper means, prohibiting such fees would help to create an environment in which a culture of integrity could thrive.

Gifts from lobbyists to parliamentarians should also be prohibited.

### **Sponsored passes**

On the specific issue of sponsored passes, the Centre for Public Integrity is of the view that the names of pass-holders other than family members should be disclosed on the Australian Parliament House biographical page of their sponsoring members, along with the details of any entity with which they are affiliated.

An optimal system would see these disclosures integrated with an enhanced Lobbyist Register (so that if a pass-holder is a third-party lobbyist, it is easy to identify their clients), as well as with the AEC donations disclosures.

## **About The Centre for Public Integrity**

The Centre for Public Integrity is an independent think tank dedicated to preventing corruption, protecting the integrity of our accountability institutions, and eliminating undue influence of money in politics in Australia. Board members of the Centre are the Hon Stephen Charles AO KC, the Hon Anthony Whealy KC, Professor George Williams AO, Professor Joo Cheong Tham, Professor Gabrielle Appleby and Geoffrey Watson SC. Former board members include the Hon Tony Fitzgerald AC KC and the Hon David Ipp AO KC. More information at: [www.publicintegrity.org.au](http://www.publicintegrity.org.au).

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<sup>26</sup> See, eg, *Lobbyists Act 2015* (SA) s 14.