

ANNEX A – RESPONSE TO DRAFT RECOMMENDATIONS

No.	ISSUE	RESPONSE	COMMENT
1	Definition of Lobbying Activities	PARTIALLY SUPPORT	<p>The revised, broader definition replaces 'influence Government decision making' with 'advocate for an interest, prior to a decision' which potentially significantly widens the definition.</p> <p>For comparison, the NSW <i>Lobbying of Government Officials Act 2011</i> refers to 'representing interests', while SA <i>Lobbyists Act 2015</i> and WA <i>Integrity (Lobbyists) Act 2016</i> refers to 'influencing outcomes'.</p> <p>Suggest that the wording 'representing an interest, prior to a decision' would be less likely to stifle the ability of individuals and community members to advocate for their own interests to a public representative and would be more targeted at capturing those who are representing the interest of a powerful minority.</p> <p>The proposed definition applies to someone advocating an interest regarding the making or amendment of legislation, development or amendment of a government policy or program, awarding of a government contract or grant, and allocation of funding. It seems as though this would capture an individual writing into their local member to express a view on whether that member should support a Bill or not.</p> <p>It is important that the definition of lobbying activities does not unnecessarily and inappropriately stifle legitimate political discourse or the ability of individuals and community members to advocate for their interests.</p>
2	Exemptions from definition	PARTIALLY SUPPORT	<p>It is noted that some of the proposed exemptions reflect existing exemptions, and this is supported.</p> <p>However, there are concerns over the removal of current exceptions that are contained in other jurisdiction's lobbying frameworks such as 'responses to requests by Government representatives for information' and 'communications in response to a request for tender'.</p>

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			<p>The other exceptions proposed for removal may be partly or fully addressed by the new proposed exemptions. Suggest these need to be considered further to ensure that nothing which should be exempt is inadvertently not covered.</p> <p>The existing exemption 'communications with a Committee of the Parliament; and Petitions or communications of a campaign nature' may be covered by the proposed 'already transparent by nature' exemption.</p> <p>The existing exemption 'communications with a Minister or Parliamentary Secretary in their capacity as a local Member of Parliament in relation to non-Ministerial duties' may be covered by the proposed 'incidental meetings or constituents seeking advice or assistance from their local member' exemption.</p> <p>In particular, the potential for routine correspondence with the public to be captured by the proposed definition is not supported. The above proposed exemption for example does not include correspondence or meetings with constituents for purposes other than seeking advice or assistance. This will mean that much of the routine correspondence received from the public, such as complaints, suggestions, views, or experiences, could be captured by the expanded definition of 'lobbying activity'. This may stifle the ability of individuals and community members to advocate for their own interests to a public representative.</p> <p>Further, the exemptions should explicitly include applications from the public seeking financial assistance or rights to access/use government land/assets (e.g. grants, loans, purchase or lease public land/assets, government licences, etc).</p>

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3	Definition of Lobbyist	DO NOT SUPPORT	<p>The proposed definition is substantially different from the current definition in that no categories of persons are excluded. The policy case for this change is not clear.</p> <p>The current definition excludes lobbyists from a number of categories, which is similar to the exclusions in many other jurisdictions (other than NSW which only excludes the last category below):</p> <ul style="list-style-type: none"> - charitable, religious, non-profit organisations; - professional associations and unions; - visiting trade delegations; - tax agents, company auditors; - doctors, lawyers, accountants etc who make occasional representations to Government in a way that is incidental to the provision of their professional services. <p>There are also concerns over how this may discourage community members from sharing their views, experiences, and ideas with the Government, which would not be in the best interests of the community.</p>
4	Definition of Registered Lobbyist	PARTIALLY SUPPORT	<p>If 'in-house lobbyists' were to be included in the definition of 'registered lobbyist', there should be a clear definition of what constitutes an 'in-house lobbyist' and the onus should be on the lobbyist to self-identify.</p> <p>It is noted that the Australian Government Lobbying information page states <i>"The Code does not apply to lobbyists who make representations to government (or conduct lobbying activity) on behalf of their employer ('in-house' lobbyists), as these representations are considered sufficiently transparent"</i>.</p>
5	Additional obligations for Lobbyists	SUPPORT	This proposed reform is supported.
6	Definition of Public Representative	PARTIALLY SUPPORT	Do not support inclusion of direct reports to Heads of Agency or members of Boards of State-owned companies and Government Business Enterprises. This would create a

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			<p>significant administrative burden which will discourage compliance and defeat the purpose of tightening lobbying oversight.</p> <p>Support bringing CEOs of state-owned companies and GBEs into the definition of ‘public representatives’ but consultation with these bodies is needed.</p>
7	New standards for interaction with lobbyists	PARTIALLY SUPPORT	<p>There is existing legislative and policy cover and guidance for State Servants, and therefore any new standards should not duplicate existing requirements or create confusion. Suggest that any gaps be identified and incorporated into existing policies.</p> <p>It is noted that the Research Report states “Generally, Australian and international codes of conduct focus on regulating standards of conduct for lobbyists rather than the lobbied.” This principle should be reflected by allowing the current law and policy regulating State Servant’s conduct to exist without duplicated or extended requirements which will create confusion and be administratively burdensome.</p>
8	Expanding entity information for Lobbying Register	PARTIALLY SUPPORT	<p>Support most suggestions except as follows.</p> <ul style="list-style-type: none"> - Lobbyists are required to disclose their clients (which would include political parties and candidates), so it does not appear necessary to specifically require disclosing having professionally advised on an election campaign. - In relation to the disclosure of political donations, the <i>Electoral Disclosure and Funding Bill 2022</i> (and the <i>Electoral Matters (Miscellaneous Amendments) Bill 2022</i>) passed through the House on 23 November 2022 and will be considered by the Legislative Council in 2023. They bring Tasmania in line with other jurisdictions which have state-based requirements for the disclosure of political donations. The electoral reform disclosure provisions require disclosures to be made within 7 days of the \$5000 donation in election campaign periods, and otherwise every 6 months. - We therefore consider disclosure of political donations should be managed under electoral legislation, rather than having separate and possibly different donation disclosure parameters in the Lobbyist register.

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9	New contact disclosure log for Public Representatives	DO NOT SUPPORT, GIVEN BROAD DEFINITIONS	<p>Would impose disproportionate administrative burden on participants, particularly given broad definitions for 'public representative,' 'lobbyist', and 'lobbying activities'.</p> <p>It is noted that some agencies necessarily discuss highly commercially sensitive information and disclosing this would be problematic.</p> <p>It is important that the lobbying system does not stifle legitimate political discourse or the ability of community members to advocate for their interests. As recent examples, a company that was unhappy with an Ombudsman decision recently wrote to the Premier to express its disagreement with the outcome (this did not amount to an 'in-house lobbyist'); and a private citizen wrote to the Attorney-General advocating for a change in legislation to do with the awarding of costs. It seems that both contacts would have to be disclosed under the proposed definitions, and it is not clear what purpose that would serve. It may also discourage companies and individuals from raising issues of concerns with Ministers.</p>
10	Ban on gift giving	PARITALLY SUPPORT	There is sufficient policy cover for State Servants in existing Gifts, Benefits and Hospitality Policy. Suggest that, if any gaps are identified, existing policies are revised accordingly, to avoid duplication of policies.
11	Ban on success fees	NOT APPLICABLE TO STATE SERVICE	
12	Cooling off period apply to expanded definition of public representatives	PARTIALLY SUPPORT	Support the retention of 12 month cooling off period but only support in part the expanded definition of Public Representatives (see recommendation 6)

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13	Restrictions arising from electoral campaign support	NOT APPLICABLE TO STATE SERVICE	Please see comments relating to Recommendation 8.
14	Disclosure of political donations by lobbyists	NOT APPLICABLE TO STATE SERVICE	Please see comments relating to Recommendation 8.