

Ms Kate Thwaites MP  
Joint Standing Committee on Electoral Matters

By email: [em@aph.gov.au](mailto:em@aph.gov.au)

16 December 2022

Dear Ms Thwaites MP

**Re: Inquiry into the *Referendum (Machinery Provisions) Amendment Bill 2022***

Thank you for the opportunity to make a submission with respect to the *Referendum (Machinery Provisions) Amendment Bill 2022* (Cth) (**the Bill**). Given the tight timeframe, we have only been able to consider discrete aspects of the Bill.

**The effort to make funding behind referendum campaigns transparent is commendable, but should be made as straight-forward as possible**

Transparency of the funding for referendum campaigns is every bit as important as transparency in election campaigns. It follows that we support Schedule 4 of the Bill.

The expected referendum on the Voice will no doubt lead to a great many people and civil society organisations contributing to the important national conversation. Many of these people and organisations may be new to the type of advocacy that is regulated by electoral law, and so ensuring compliance is as straight-forward as possible is incredibly important.

To that end, we note and support the significant degree of consistency between the definition of “referendum matter” in proposed s. 3AA of the Bill and “electoral matter” in s. 4AA of the *Commonwealth Electoral Act 1918* (Cth) (**Electoral Act**). There is however an important omission in proposed s. 3AA of the Bill which should be rectified.

Subsection 4AA(1) of the Electoral Act includes a note which clarifies that there can only be one dominant purpose for any electoral matter, and it doesn’t relevantly include education, raising awareness or encouraging debate on a public policy issue. In the election context, this note has been extremely useful to third parties attempting to understand whether their communications qualify as “electoral matter”. Leaving an equivalent note out of the definition of “referendum matter” in the Bill will naturally raise the question as to whether this definition should be interpreted differently, and could cause confusion.

Second, we note that the disclosure threshold in the Bill is defined by reference to the disclosure threshold in the Electoral Act. If Parliament is minded to reduce the disclosure threshold in the Electoral Act down to \$1,000, as is currently being considered by the Committee, this would need to

take effect after the referendum. To reduce the disclosure threshold to such a low amount, and at such short notice, will impose a significant burden on civil society organisations and individuals and may discourage them from engaging in advocacy.

**If on-the-day enrolment is achievable for Aboriginal and Torres Strait Islander people living on homelands, it should be actioned as a priority**

We note the recommendation of the Central Land Council to this Committee in response to the 2022 federal election that:

“The Commonwealth Electoral Act 1918 be amended to allow on-the-day enrolment, and that the AEC facilitate this approach to increase voter enrolment in future elections.”

If this recommendation can be practically implemented for people in remote communities in time for the Voice referendum, we encourage this Committee to include such a provision for referendums in this Bill.

Regards,



**Alice Drury**  
Acting Legal Director