



**Northern Territory  
Electoral Commission**  
*EVERY vote counts!*

# Johnston By-election Compliance Review Report

**Ban Fracking Fix Crime Protect Water**



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## Purpose of this report

The [Electoral Act 2004](#) (the Act) contains provisions which set in place a scheme requiring disclosure of certain financial information by participants in the electoral process.

The purpose of the financial disclosure scheme is to:

- (a) establish a transparent electoral expenditure and disclosure regime
- (b) increase the transparency of election campaigns
- (c) reduce undue influence in the electoral process; to promote the accountability of, and compliance by, registered parties, MLAs, candidates, associated entities, third-party campaigners and donors.

The specific objectives of the compliance review were to:

- Review of the electoral expenditure by selected candidates for the Johnston by-election held in March 2020.
- Establish the level of compliance with Part 10 of the Act.

## Background

The Northern Territory Electoral Commission (NTEC) is an independent government agency responsible for the impartial conduct of Northern Territory Legislative Assembly and local government (Council) elections.

Other functions include:

- Assistance with maintenance of electoral rolls;
- Provision of information and advice on election matters to the Minister, Cabinet, political parties, candidates and Territory authorities;
- Undertaking public awareness to educate and provide information to the public including school children on electoral matters;
- Researching electoral matters;
- Registration of political parties, associated entities and third-party campaigners;
- Administration of financial disclosure by political parties, candidates and related entities; and
- Assistance towards redistribution of electoral boundaries.

The Act embodies the legislation which gives the NTEC its powers.

As noted above, one of the NTEC functions is to administer the disclosure of information following an election regarding political contributions and electoral expenditure above prescribed thresholds by:

- candidates in the election; and
- donors.

In addition to election event reporting, annual reporting requirements are placed on registered political parties, their associated entities and donors. Such financial disclosure increases accountability, transparency and information in the public domain about the financial dealings of those involved in the electoral process. The onus is on the person disclosing to get it right.

Part 10 of the Act, in summary sets out who should disclose, what should be disclosed, by when and how. It defines the terms used in the legislation and details offences under the legislation and the kind of records that should be maintained in order to comply with requirements. Unlike the *Commonwealth Electoral Act 1918*, there are no provisions for public funding in the Northern Territory.

## Disclosure obligations

Part 10 of the Act outlines financial disclosure provisions relating to donations, electoral expenditure and reporting that are incumbent on candidates, registered political parties, and associated entities. This part of the Act requires candidates, registered political parties and their associated entities, third-party campaigners and donors to disclose information to the NTEC regarding political contributions and electoral expenditure above certain thresholds.

The purpose of the 1 January 2020 reforms is to ensure transparent electoral expenditure and timely disclosure of political donation. They are designed to further increase the transparency of election campaigns and reduce undue influence in the electoral process.

Changes have been made to election disclosure laws. The new reforms affect political parties, their associated entities, candidates and third-party campaigners. The key features of the changes are:

- an indexed \$40,000 cap on electoral expenditure per seat and increased transparency of political donations, particularly in election years, to maximise the availability of up-to-date information that can be accessed by the public
- candidates and/or political parties are required to operate a Territory campaign account for NT election purposes with an authorised deposit-taking institution (ADI)
- third-party campaigner in the NT is a person who, or entity that incurs or expects to incur more than \$1,000 of political expenditure during the capped period, but does not include a candidate, a registered political party or an associated entity.

## Conduct of the review

The NTEC provides the public with information which can assist them in participating in the electoral process. Under the Act, the NTEC is also responsible for making publicly available certain financial information from participants in the electoral process.

To this end, the important components of disclosure as required by Part 10 of the Act are:

- **identity** – the names and addresses of the true participants in a transaction, such as the source and recipient of a donation, clearly identified
- **value** – the true value is accorded to a transaction
- **date** – a precise date can be important information for the public (e.g. if donations from an entity precede or coincide with the making of a decision).

In conducting the review the following key tasks were performed:

1. Preparation of the review file incorporating selected candidates and/ or political parties and the Act.
2. Matching amounts of declared electoral expenditure to the amounts recorded in the relevant accounting systems and relevant documents.
3. From the selected list of political parties and candidates, we generated a sample size appropriate to test the electoral expenditure from the relevant accounting systems for each parties or candidate to ensure compliance with Part 10 of the NTEA.
  - a. The samples for electoral expenditure were randomly selected from the general ledger details provided by the political parties.
4. Obtaining and verification of financial records and documentation covering the period for the Johnston by-election. The tests included:
  - a. By inspection, review of election bank statements for the period ended 31 March 2020;
  - b. By inspection, reviewed the cash books and general ledger details covering the period ended 31 March 2020; and
  - c. By inspection, reviewed the supporting documentation, including invoices, and vouchers covering the period ended 31 March 2020.

## Scope of the review

Accounting firm BDO Australia were engaged to undertake a full compliance review on behalf of the Commission and have access to the relevant documentation and suitable reporting agent.

In accordance with section 216 of the Act, notice is hereby given for you to produce to the Commission or its agent, the following documentation or information relating to documents for the Johnston by-election held on 29 February 2020. These documents may include:

- General ledger extracts for receipts and payments
- Bank statements, bank reconciliations, deposit listings and receipts
- Details of gift in kind including the names of the donors
- Listing of payments made in relation to electoral expenditure which reconcile to the financial disclosure return. From the list, we will select a sample of transactions which we will examine the supporting invoices and other relevant documents)
- Details of all loans outstanding and terms and conditions attached to these loans
- Creditor listings

The working documents used in collating the disclosure returns which clearly demonstrate how the disclosures were derived. Where possible, access to the accounting system used to record transactions will be required as part of the compliance review.

The above list does not necessarily constitute a final, exhaustive list of the records required for the conduct of the compliance review. Additional records may be requested if specific issues are identified in the course of the compliance review.

## Stakeholder engagement

Compliance review of electoral expenditure by selected candidates and political parties for the Johnston by-election held in March 2020 and establishing the level of compliance with Part 10 of the Act.

### Approach

1. Preparation of the review file incorporating selected candidates and/or political parties and the Act
2. Matching amounts of declared electoral expenditure to the amounts recorded in the relevant accounting systems and relevant documents.
3. From the selected list of political parties and candidates, we generated a sample size appropriate to test the electoral expenditure from the relevant accounting systems.
  - a. The samples for electoral expenditure were randomly selected from the general ledger details provided by the political parties.
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  - b. By inspection, reviewed the cash books and general ledger details covering the period ended 31 March 2020; and
  - c. By inspection, reviewed the supporting documentation, including invoices, and vouchers covering the period ended 31 March 2020.

## Review outcomes

BDO Australia obtained the relevant documents from Ban Fracking, Fix Crime, Protect Water in relation to the Johnston by-election held in March 2020 and determined a sample size deemed appropriate to adequately test the electoral expenditure in compliance with Part 10 of the Act 2004. In addition, BDO Australia compared the total electoral expenditure as per the accounting records to the declared figure disclosed on the NTEC website.

### Summary of electoral expenditure verification

Information provided to NTEC		Information as per NTEC website	
Details	Amount	Amount	Difference
Total expenditure	\$5,804.00	\$5,804.00	\$0.00

### Electoral expenditure cap

Electoral expenditure caps have been introduced. The applicable caps on electoral expenditure for all candidates is \$40,000 with a pooled cap for political parties (shared with associated entities).

Any electoral expenditure by an associated entity is to be aggregated with electoral expenditure by the registered party with which the entity associated.

**Conclusion:** Expenditure in compliance with the electoral expenditure threshold.

### Findings

- The political party does not have a robust accounting system in place which clearly identified the electoral expenditure for the Johnston by-election;
- A separate bank account designated for NT Elections was set up by the political party but the majority of the relevant electoral expenditure was paid for by third parties and not through the Territory campaign account;
- The accounting records indicated that electoral expenditure in relation to the Johnston by-election was \$5,804;
- There was no variance between the electoral expenditure in the accounting systems and the expenditure disclosed on the NTEC website;
- There were no delays in the provision of sampled supporting documents requested;
- All documents provided met the definition of electoral expenditure;

## Matters requiring further action

There are a number of elements which need to be highlighted regarding this candidate's possible participation in future elections and by-elections. These requirements are:

### Territory campaign account

Section 213A-E of the Act requires the reporting agent of a registered party or a candidate to keep a separate Territory campaign account with an ADI (authorised deposit-taking institution) for Territory electoral purposes.

All donations and electoral expenditure in relation to the Northern Territory Legislative Assembly must be processed through this account.

Please ensure that you understand the obligations required as it pertains to Part 10 of the Act, in particular the requirements for a Territory campaign account which has been highlighted as a matter requiring further action.

- Section 213A Requirement to keep Territory campaign account;
- Section 213B Gifts to be paid into Territory campaign account;
- Section 213C Payments into Territory campaign account;
- Section 213D Territory campaign account to be used for electoral expenditure; and
- Section 213E Offence.

Failure to comply may result in a contravention of section 213A, 213B, 213C or 213D and may invoke an offence.

## **Conclusion**

There was no level of compliance with the provisions of the Act in relation to the Territory campaign account and donors for the Johnston by-election.