

March 2023

Compliance Review Report

Kim 4 Canberra Pty Limited

Table of Contents

Purpose of this report	2
Disclosure obligations	2
Conduct of the review	3
Scope of the review	3
Stakeholder engagement.....	4
Review outcomes	4
1. Timely lodgement.....	4
2. Accuracy in reporting – amendments	5
Conclusion.....	5

Purpose of this report

Pursuant to s 316(2A) of the *Commonwealth Electoral Act 1918* (Electoral Act), this report provides the financial controller of Kim 4 Canberra Pty Limited (the significant third party) with the Australian Electoral Commission's (AEC) assessment of the level of compliance of the 2020–21 annual disclosure return lodged on behalf of the significant third party with disclosure obligations under ss 314AB, 314AC and 314AE of the Electoral Act.

Disclosure obligations

Registered significant third parties are required under Part XX of the Electoral Act to furnish annual returns.

Section 314AB of the Electoral Act requires the financial controller of the significant third party to furnish a return within 16 weeks after the end of each financial year, disclosing:

- the total amount received by, or on behalf of, the significant third party during the financial year, together with the details specified by s 314AC of the Electoral Act;
- the total amount paid by, or on behalf of, the significant third party during the financial year;
- the total outstanding amount, as at the end of the financial year, of all debts incurred by or on behalf of, the significant third party together with the details specified by s 314AE of the Electoral Act;
- the total amount of electoral expenditure incurred by or with the authority of the significant third party; and
- details of any discretionary benefits received by, or on behalf of the significant third party from the Commonwealth, a State or a Territory during the financial year.

Section 314AC of the Electoral Act provides that if the sum of all amounts received by, or on behalf of, the significant third party from a person or organisation during a financial year is more than the threshold amount specified therein, the annual disclosure return must include the particulars of that sum.

Section 314AC(4) of the Electoral Act provides that where the significant third party is a person or organisation registered under the *Australian Charities and Not-for profits Commission Act 2012*, an amount received greater than the threshold does not need to be disclosed if no part of it was used during the financial year to:

- incur electoral expenditure; or
- create or communicate electoral matter; or
- reimburse the significant third party for incurring electoral expenditure or creating or communicating electoral matter.

Section 314AE of the Electoral Act provides that if the sum of all outstanding debts incurred by, or on behalf of, the significant third party to a person or an organisation during a financial year is more than the threshold amount specified therein, the annual disclosure return must include the particulars of that sum.

For the 2020–21 financial year, the threshold was for sums in excess of \$14,300.

The Electoral Act is available in full [here](#).

Conduct of the review

The authorised officer of the AEC has authority under s 316(2A) to require the production of documents and giving of evidence for the purpose of assessing compliance with the disclosure obligations required of registered significant third party under Part XX of the Electoral Act.

Subsection 316(2A) requires the financial controller of a significant third party to produce the documents or other things referred to in a notice served by the authorised officer within the period and in the manner specified in the notice or to appear, at the time and place specified in the notice, before the authorised officer to give evidence, either orally or in writing, and to produce the documents or other things referred to in the notice.

As part of this process, the authorised officer of the AEC served a notice on the financial controller under s 316(2A) requiring the significant third party to provide its financial records and other documents in relation to its financial operations for 2020–21.

Scope of the review

The records which were requested by the AEC from the financial controller were limited to those which enabled the AEC to assess the following aspects of compliance with its disclosure obligations under Part XX of the Electoral Act:

- the timeliness of lodgement of the annual disclosure return
- the completeness and accuracy of the following information disclosed in the significant third party's annual disclosure return for the 2020–21 financial year:
 - total receipts
 - total gifts in kind
 - individual receipts above \$14,300
 - total payments
 - total debts
 - individual debts above \$14,300
 - total electoral expenditure

- discretionary benefits.

The AEC did not examine other aspects of the financial operations of the significant third party such as the existence or effectiveness of internal controls.

Stakeholder engagement

The AEC's general practice is to communicate with the relevant officer of the significant third party by phone, email and/or face to face meetings as appropriate to cover the following topics:

- financial reports and documentation available from the significant third party's accounting system
- compliance issues arising from the AEC review of the financial reports and documentation provided by the significant third party
- required and suggested amendments to the annual disclosure return which arise from the compliance review
- potential enhancements in the financial controller's understanding of disclosure obligations and accounting processes to improve future compliance.

During the review the financial controller provided documentation to the AEC as requested and within set timeframes.

A draft compliance review report was issued by the authorised officer of the AEC on 3 March 2023. The financial controller was provided with an opportunity to comment on the draft report by 10 March 2023. On 10 March 2023 the financial controller advised they had no comments.

Review outcomes

1. Timely lodgement

Subsection 314AB(3A) of the Electoral Act requires the financial controller of the significant third party to lodge an annual disclosure return for a previous financial year with the AEC within 30 days of registration for the current financial year¹. The entity registered as a significant third party on 23 December 2021 and lodgement occurred on 31 January 2022, which is after the due date of 22

¹ On 13 December 2021, the *Electoral Legislation Amendment (Political Campaigners) Act 2021* received Royal Assent. Subsection 314AB requires the financial controller of the significant third party to lodge an annual disclosure return with the AEC within 16 weeks after the end of the financial year. Section 314AB(3A) was implemented with the legislation changes, requiring the financial controller of the newly registered significant third party to lodge a financial disclosure return for a previous financial year with the AEC within 30 days of registration.

January 2022. As such the return did not comply with the requirement under s 314AB(3A) to lodge a 2020-21 return within 30 days of registration.

2. Accuracy in reporting – amendments

After examining the documents provided by the financial controller for the review, the authorised officer of the AEC identified no issues relating to compliance with disclosure obligations under ss 314AB, 314AC and 314AE of the Electoral Act.

Conclusion

The authorised officer of the AEC for the purposes of s 316(2) of the Electoral Act has assessed the 2020–21 annual disclosure return for the significant third party lodged with the AEC on 31 January 2022 did not comply with the requirement under s 314AB(3A) of the Electoral Act to lodge a return for a significant third party within 30 days of registration.

The authorised officer of the AEC has assessed the 2020–21 annual disclosure return lodged on behalf of the significant third party accurately includes the information required to be disclosed under the provisions of sections 314AB, 314AC and 314AE of the Electoral Act.

Joanne Reid
Assistant Commissioner
Australian Electoral Commission

15 March 2023