



Mr <sup>s 47F</sup>  
<sup>s 47F</sup> @me.com

Dear Mr <sup>s 47F</sup>

#### NOTICE UNDER SECTION 321F OF THE COMMONWEALTH ELECTORAL ACT 1918

Whereas I, Andrew Johnson, a delegate of the Electoral Commissioner, have reason to believe that Mr <sup>s 47F</sup> (you) have information and documents relating to assessment of compliance with section 321D of the *Commonwealth Electoral Act 1918* (**Electoral Act**).

#### Suspected contraventions of section 321D of the Electoral Act

From 18 November 2018 to 18 May 2019, Dr Andrew Laming, being a member of the House of Representatives and therefore a Disclosure Entity for the purposes of the Electoral Act is suspected of having communicated electoral matter (as defined by s4AA of the Electoral Act) through posts on various Facebook pages without including the mandatory authorisation particulars required by section 321D(5) of the Electoral Act (**unauthorised electoral communications**). The pages on which the unauthorised electoral communications are suspected to have been made include:

- a. Redland Hospital: Let's Fight for Fair Funding ([www.facebook.com/RedlandHospital](http://www.facebook.com/RedlandHospital))
- b. Redland Bay Bulletin ([www.facebook.com/RedlandBulletin](http://www.facebook.com/RedlandBulletin))
- c. Redlands Institute ([www.facebook.com/RInstit](http://www.facebook.com/RInstit))
- d. Thornlands 4164 ([www.facebook.com/ThornlandsQLD](http://www.facebook.com/ThornlandsQLD))
- e. Victoria Point News.

<sup>s 47F</sup>

#### Information and documents to be produced

As a delegate of the Electoral Commissioner, I require you to produce the information in Schedule 1 and documents in Schedule 2 to this notice under section 321F of the Electoral Act. The information and documents are to be provided in native electronic form and must be sent by email to: [authorisationsection@aec.gov.au](mailto:authorisationsection@aec.gov.au) by no later than 16 June 2021.

For your reference I have attached the relevant parts of sections 321D and 321F of the Electoral Act (**Attachment A**). It is a criminal offence under section 137.1 and 137.2 of the *Criminal Code* to provide false or misleading information or documents.

Yours sincerely

**Andrew Johnson**  
 Chief Legal Officer  
 Legal & Procurement Branch  
 2 June 2021



## Schedule 1: Information to be produced

1. Identify each Facebook page:

s 47F

- 2.

- a. the time period(s) during which the page was published or able to be accessed by Facebook users;

- b.

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- c. the basis upon which the page was able to be accessed (eg as a private or public page).

3. Identify:

- a.

s 47F

- b. the date and content of each of the instructions identified in subparagraph (a).

4. For each of the pages identified in questions 1 to 3, please explain the steps taken, if any, to disclose the particulars required by item 4 of s 321D(5) of the Electoral Act, being:

- a. Dr Laming's name; and
  - b. the town or city in which Dr Laming lived at the time.



## Schedule 2: Documents to be produced

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1. Complete copies (including all types of information available using the “download your information” function under settings in both HTML and JSON format) of the current or most recent versions of:
  - a. s 47F
  - b. any other page referred to in response to question 1 to Schedule 1 to this Notice.(together, the **Relevant Pages**)
2. Any documents (including, without limitation, emails, chat messages or records, SMS messages and other written communications) in your possession, power or control recording or evidencing:
  - a. Communications with Dr Laming or any other person acting on his behalf concerning or referring to any of the Relevant Pages;
  - b. historical changes made to the Relevant Pages; and/or
  - c. the identity, username(s) and/or contact details of the administrator(s) of the Relevant Pages.

## ATTACHMENT A

### 321D Authorisation of certain electoral matter

- (1) This section applies in relation to electoral matter that is communicated to a person if:
- (a) all of the following apply:
    - (i) the matter is an electoral advertisement;
    - (ii) all or part of the distribution or production of the advertisement was paid for;
    - (iii) the content of the advertisement was approved by a person (the *notifying entity*) (whether or not that person is a person who paid for the distribution or production of the advertisement); or

.....

#### *Notifying particulars*

- (5) The notifying entity must ensure that the particulars set out in the following table, and any other particulars determined under subsection (7) for the purposes of this subsection, are notified in accordance with any requirements determined under that subsection.

Required particulars		
Item	If ...	the following particulars are required ...
1	the communication is a sticker, fridge magnet, leaflet, flyer, pamphlet, notice, poster or how-to-vote card authorised by a disclosure entity that is not a natural person	<ul style="list-style-type: none"> <li>(a) the name of the entity (as included in the most recent return given in relation to the entity under Part XX, if a return has been given in relation to the entity under that Part);</li> <li>(b) the address of the entity;</li> <li>(c) the name of the natural person responsible for giving effect to the authorisation;</li> <li>(d) the name of the printer who printed the communication;</li> <li>(e) the address of the printer</li> </ul>
2	the communication is any other communication authorised by a disclosure entity that is not a natural person	<ul style="list-style-type: none"> <li>(a) the name of the entity (as included in the most recent return given in relation to the entity under Part XX, if a return has been given in relation to the entity under that Part);</li> <li>(b) the relevant town or city of the entity;</li> <li>(c) the name of the natural person responsible for giving effect to the authorisation</li> </ul>

Required particulars		
Item	If ...	the following particulars are required ...
3	the communication is a sticker, fridge magnet, leaflet, flyer, pamphlet, notice, poster or how-to-vote card authorised by a disclosure entity who is a natural person	(a) the name of the person; (b) the address of the person; (c) the name of the printer who printed the communication; (d) the address of the printer
4	the communication is any other communication authorised by a disclosure entity who is a natural person	(a) the name of the person; (b) the relevant town or city of the person
5	the communication is a sticker, fridge magnet, leaflet, flyer, pamphlet, notice, poster or how-to-vote card authorised by an entity that is not a disclosure entity or a natural person	(a) the name of the entity; (b) the address of the entity; (c) the name of the printer who printed the communication; (d) the address of the printer
6	the communication is any other communication authorised by an entity that is not a disclosure entity or a natural person	(a) the name of the entity; (b) the relevant town or city of the entity
7	the communication is a sticker, fridge magnet, leaflet, flyer, pamphlet, notice, poster or how-to-vote card authorised by a natural person who is not a disclosure entity	(a) the name of the person; (b) the address of the person; (c) the name of the printer who printed the communication; (d) the address of the printer
8	the communication is any other communication authorised by a natural person who is not a disclosure entity	(a) the name of the person; (b) the relevant town or city of the person

Note 1: This provision is a civil penalty provision which is enforceable under the Regulatory Powers Act (see section 384A of this Act).

Note 2: A person may contravene this subsection if the person fails to ensure that particulars are notified or if the particulars notified are incorrect.

Note 3: For the application of this provision to a notifying entity that is not a legal person, see subsection (6).

Civil penalty: 120 penalty units.

### **321F Electoral Commissioner may obtain information and documents from persons**

- (1) This section applies to a person if the Electoral Commissioner has reason to believe that the person has information or a document that is relevant to assessing compliance with section 321D.
- (2) The Electoral Commissioner may, by written notice given to the person, require the:
  - (a) to give to the Commissioner, within the period and in the manner and form specified in the notice, any such information; or
  - (b) to produce to the Commissioner, within the period and in the manner specified in the notice, any such documents; or
  - (c) to make copies of any such documents and to produce to the Commissioner, within the period and in the manner specified in the notice, those copies.

#### *Matters to which regard must be had before giving notice*

- (3) Before giving a person a notice under subsection (2), the Electoral Commissioner must have regard to the costs, in complying with any requirement in the notice, that would be likely to be incurred by the person.
- (4) Subsection (3) does not limit the matters to which regard may be had.

#### *Content of notice*

- (5) A notice given to a person under this section must set out the effect of sections 137.1 and 137.2 of the *Criminal Code* (false or misleading information or documents).

#### *Copying documents—reasonable compensation*

- (6) A person is entitled to be paid by the Commonwealth reasonable compensation for complying with a requirement covered by paragraph (2)(c).