

April 2021

Compliance Review Report

LET Australia Ltd (Formerly COAL21 Ltd)

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Purpose of this report

Pursuant to s 316(2A) of the *Commonwealth Electoral Act 1918* (the Electoral Act), this report provides the financial controller of LET Australia Ltd (formerly COAL21 Ltd) (the political campaigner) with the Australian Electoral Commission's (AEC) assessment of the level of compliance of the 2018-2019 annual disclosure return lodged on behalf of the political campaigner with disclosure obligations under ss 314AB, 314AC and 314AE of the Electoral Act.

Disclosure obligations

Registered political campaigners 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 political campaigner 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 political campaigner, 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 political campaigner 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 political campaigner 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 political campaigner; and
- details of any discretionary benefits received by, or on behalf of the political campaigner 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 political campaigner 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 political campaigner 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 political campaigner 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 political campaigner 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 2018–19 financial year, the threshold was for sums in excess of \$13,800.

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 political campaigners under Part XX of the Electoral Act.

Subsection 316(2A) requires the financial controller of a political campaigner 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 political campaigner to provide its financial records and other documents in relation to its financial operations for 2018–19.

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 political campaigner's annual disclosure return for the 2018–19 financial year:
 - total receipts
 - total gifts in kind
 - individual receipts above \$13,800
 - total payments
 - total debts
 - individual debts above \$13,800
 - total electoral expenditure

- discretionary benefits

The AEC did not examine other aspects of the financial operations of the political campaigner 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 political campaigner by phone, email and/or face to face meetings as appropriate to cover the following topics:

- financial reports and documentation available from the political campaigner's accounting system
- compliance issues arising from the AEC review of the financial reports and documentation provided by the political campaigner.
- 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 31 March 2021. The financial controller was provided with an opportunity to comment on the draft report by 13 April 2021. The financial controller did not provide any comment and lodged a request for amendment on 12 April 2021.

Review outcomes

1. Timely lodgement

Subsection 314AB(1) of the Electoral Act requires the financial controller of the political campaigner to lodge an annual disclosure return with the AEC within 16 weeks after the end of the financial year. As lodgement occurred on 21 October 2019 which is on the due date of 21 October 2019, the return complied with the requirement under s 314AB(1) to lodge a return for the political campaigner within 16 weeks after the end of the financial year.

2.Accuracy in reporting – amendments

After examining the documents provided by the financial controller for the review, the authorised officer of the AEC identified several issues relating to compliance with disclosure obligations under sections 314AB(2), 314AC and 314AE of the Electoral Act. The issues are discussed in detail below.

Total Receipts and Total Payments

Paragraph 314AB(2)(a)(i) of the Electoral Act requires the financial controller to report the total amount received by, or on behalf of, the political campaigner during the financial year, together with the details required by s 314AC. To satisfy this, the financial controller must account for all transactions that result in receipts from external entities. These transactions must be accounted for on a gross basis without any offsetting, inclusive of GST. All non-cash benefits received by the political campaigner must also be included in total receipts.

Paragraph 314AB(2)(a)(ii) of the Electoral Act requires the financial controller to report the total amount paid by, or on behalf of, the political campaigner during the financial year. To satisfy this, the financial controller must account for all transactions that result in payments to external entities. These transactions must be accounted for on a gross basis without any offsetting, inclusive of GST.

Transactions within the entity including those between its individual bank accounts, represent internal transfers. Such transactions should be eliminated from the calculation of total receipts and total payments to avoid inflating the total amounts reported in the return.

Total reportable receipts disclosed by the financial controller were under-stated in the political campaigner's 2018–19 annual disclosure return. The amount recorded as total receipts in the return is required to be amended by the political campaigner in order to ensure compliance with the Electoral Act.

Total reportable payments disclosed by the financial controller were under-stated in the political campaigner's 2018–19 annual disclosure return. The amount recorded as total payments and outlays on the entity's behalf in the return is required to be amended by the political campaigner in order to ensure compliance with the Electoral Act. The relevant amendments are set out below.

Part 1a: Total Receipts AND Part 3: Total payments – amendments		
	Total receipts	Total payments
Total disclosed in return	\$16,573,098	\$25,806,286
Amended total	\$18,726,232	\$27,425,304

Amounts of more than \$13,800

Section 314AC of the Electoral Act provides that if the sum of all amounts received by, or on behalf of, the political campaigner from a person or organisation during a financial year is more than the threshold, the annual disclosure return must include the particulars of that sum. Furthermore, that sum is to include only those individual amounts which exceed the threshold.

Individual receipts exceeding the threshold were under-disclosed in the political campaigner's 2018-19 annual disclosure return. A number of amendments to individual receipts exceeding the \$13,800 threshold are required in order to ensure compliance with the Electoral Act. The relevant amendments are set out below.

Part 2: Amounts of more than \$13,800 received – amendments				
Entry	Name	Address	Amount received	Receipt Type
New entry no. 1	Australian Taxation Office	GPO Box 9990 SYDNEY NSW 2001	\$1,600,648	Other Receipts
New entry no. 2	Westpac Banking Corporation	10-12 Franklin Street MANUKA ACT 2603	\$404,000	Other Receipts
Original entry no. 1	Rio Tinto Coal Australia Pty Ltd	GPO Box 391 BRISBANE QLD 4001	\$1,156,190	Other Receipts
Amended entry no. 1	Rio Tinto Coal Australia Pty Ltd	GPO Box 391 BRISBANE QLD 4001	1,303,684	Other Receipts
Original entry no. 2	Cumnock No. 1 Colliery Pty Ltd	Locked Bag 2 SINGLETON NSW 2330	\$224,757	Other Receipts
Amended entry no. 2	Cumnock No. 1 Colliery Pty Ltd	Locked Bag 2 SINGLETON NSW 2330	\$153,667	Other Receipts
Original entry no. 3 (to be removed)	The Wallerawang Collieries Limited	PO Box 13 LITHGOW NSW 2790	\$68,847	Other Receipts
Amended entry no.3	The Wallerawang Collieries Limited	PO Box 13 LITHGOW NSW 2790	\$63,868	Other Receipts
Original entry no. 4	Austar Coal Mine Pty Ltd	Locked Bag 806 CESSNOCK NSW 2325	\$57,300	Other Receipts
Amended entry no. 4	Austar Coal Mine Pty Ltd	Locked Bag 806 CESSNOCK NSW 2325	\$19,234	Other Receipts
Original entry no. 5	Sonoma Mine Management Pty Ltd	PO Box 10630 BRISBANE QLD 4001	\$56,759	Other Receipts

Part 2: Amounts of more than \$13,800 received – amendments					
Entry	Name	Address	Amount received	Receipt Type	
Amended entry no. 5	Sonoma Mine Management Pty Ltd	PO Box 10630 BRISBANE QLD 4001	\$32,950	Other Receipts	
Original entry no. 6	Muswellbrook Coal Pty Ltd	(not provided) MUSWELLBROOK NSW 2333	\$56,212	Other Receipts	
Amended entry no. 6	Muswellbrook Coal Pty Ltd	(not provided) MUSWELLBROOK NSW 2333	\$32,178	Other Receipts	
Original entry no. 7	Ashton Coal Operations Pty Ltd	PO Box 699 SINGLETON NSW 2330	\$50,723	Other Receipts	
Amended entry no. 7	Ashton Coal Operations Pty Ltd	PO Box 699 SINGLETON NSW 2330	\$15,612	Other Receipts	
Original entry no. 8	Ravensworth Operations Pty Ltd	PO Box 294 MUSWELLBROOK NSW 2333	\$46,265	Other Receipts	
Amended entry no. 8	Ravensworth Operations Pty Ltd	PO Box 294 MUSWELLBROOK NSW 2333	\$16,007	Other Receipts	
Original entry no. 9	Gloucester Coal Ltd	PO Box 2275 GREEN HILLS NSW 2323	\$45,905	Other Receipts	
Amended entry no. 9	Gloucester Coal Ltd	PO Box 2275 GREEN HILLS NSW 2323	\$14,521	Other Receipts	
Original entry no. 10	Oceanic Coal Australia Limited	PO Box 4186 EDGEWORTH NSW 2285	\$45,408	Other Receipts	
Amended entry no. 10	Oceanic Coal Australia Limited	PO Box 4186 EDGEWORTH NSW 2285	\$15,710	Other Receipts	
Original entry no. 11	Byerwen Coal Pty Ltd	PO Box 10630 BRISBANE QLD 4001	\$31,649	Other Receipts	
Amended entry no. 11	Byerwen Coal Pty Ltd	PO Box 10630 BRISBANE QLD 4001	\$14,017	Other Receipts	

Part 2: Amounts of more than \$13,800 received – amendments				
Entry	Name	Address	Amount received	Receipt Type
Original entry no. 12	HV Coking Coal Pty	1 Macquarie Place SYDNEY NSW 2000	\$26,526	Other Receipts
Amended entry no. 12	Remove			
Original entry no. 13	Donaldson Coal Pty Ltd	PO Box 2275 GREEN HILLS NSW 2323	\$21,830	Other Receipts
Amended entry no. 13	Remove			

Total Debts

Paragraph 314AB(2) of the Electoral Act requires the financial controller to report the total outstanding amount as at the end of the financial year of all debts incurred by or, on behalf of, the political campaigner.

Total reportable debts of the political campaigner were under-stated in the political campaigner's 2018–19 annual disclosure return. The amount recorded as total debts in the return is required to be amended by the financial controller in order to ensure compliance with the Electoral Act. The relevant amendment is set out below.

Part 4: Total Debts – amendment	
Total disclosed in return	\$0
Amended total	\$223,217

Debts of more than \$13,800

Section 314AE of the Electoral Act provides that if the sum of all outstanding debts, incurred by, or on behalf of, the political campaigner to a person or an organisation during a financial year is more than the threshold, the return must include the particulars of that sum.

Individual debts exceeding the threshold were under-disclosed in the political campaigner's 2018–19 annual disclosure return. A number of amendments to individual debts exceeding the \$13,800 threshold are required in order to ensure compliance with the Electoral Act. The relevant amendments are set out below.

Part 5: Debts of more than \$13,800 – amendments				
Entry	Name	Address	Amount Owed	Financial/Non-financial institution
New entry no. 1	The University of Queensland	Administration Campus ST LUCIA QLD 4067	\$126,595	Non-financial Institution
New entry no. 2	Universal McCann	1/29 Doggett Street FORTITUDE VALLEY QLD 4006	\$53,584	Non-financial Institution
New entry no. 3	Australian Taxation Office	GPO Box 9990 SYDNEY NSW 2001	\$21,741	Non-financial Institution

Matters requiring future action

It is recommended the financial controller ensures the accuracy of future annual disclosure returns and therefore improve compliance with Part XX of the Electoral Act by:

- calculating total receipts and payments from a complete listing of bank account receipts and payments respectively
- including all amounts received in the calculation of total receipts, regardless of the nature of the amounts received
- including all amounts paid in the calculation of total payments, regardless of the nature of the amounts paid
- examining all amounts received by the party in identifying receipts above the threshold for disclosure
- including all debts listed in the trial balance as owing to other persons and entities in the calculation of total debts, other than amounts owed for staff entitlements, regardless of the age of the debt
- examining all debts listed in the trial balance as owing to other persons and entities in identifying individual debts exceeding the threshold for disclosure
- checking the accuracy of all calculations of amounts for disclosure in the annual disclosure return.

Conclusion

The authorised officer of the AEC for the purposes of s 316(2) of the Electoral Act has assessed the 2018–19 annual disclosure return for the political campaigner lodged with the AEC on 21 October 2019 complied with the requirement under s 314AB(1) of the Electoral Act to lodge a return for political campaigner within 16 weeks after the end of the financial year.

However, in view of the discrepancies identified, the return did not comply with the provisions of ss 314AB(2), 314AC and 314AE of the Electoral Act.

In view of the lodgement by the financial controller on 12 April 2021, of an amendment to the political campaigner's 2018–19 annual disclosure return, the authorised officer of the AEC has assessed that the disclosure return (as amended) accurately includes the information required to be disclosed under the provisions of sections 314AB(2), 314AC and 314AE of the Electoral Act.

Joanne Reid
Assistant Commissioner
Australian Electoral Commission

13 April 2021