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Tuesday, 28 September 2021

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To whom it may concern,

Thank you for the opportunity to make a representation in relation to the *Electoral Disclosure and Funding Bill 2021* and *Electoral Matters (Miscellaneous Amendments) Bill 2021*.

We are pleased that these draft Bills have finally been presented, and welcome steps to improve Tasmania's currently weak electoral laws.

We are, however, disappointed that the proposed laws when considered collectively, in our opinion, would still be the weakest of any state or territory in Australia. In particular we will remain the only state or territory in Australia without any expenditure limit on parties and candidates in State Election campaigns.

The Greens recommend eight amendments to the draft bill that would shift our electoral laws from being the weakest of any state or territory, to the strongest.

Recommendations:

1. The draft Bill should be amended to include a cap of \$3,000, on aggregate political donations from the same source, per electoral term, in line with the recommendations of the Senate Committee into the Political Influence of Donations.
2. The draft Bill should be amended to only allow political donations from 'natural persons' who are citizens or permanent residents.
3. The draft Bill should be amended to reflect Queensland's real-time disclosure framework, requiring donation disclosures 7 business days after receipt, and within 24 hours during the 7 days before polling day.

4. The draft Bill should be amended to include an expenditure cap for House of Assembly elections of \$81,000 for individual candidates and \$810,000 for political parties in 2020, indexed by \$1,000 and \$10,000 respectively per year.
5. That public funding in the draft Bill be linked to an expenditure cap, and the draft Bill be amended to reduce the public funding rate per first preference vote to the Commonwealth rate (\$2.83).
6. That the requirement that a candidate or party receives 4% of the primary vote in order to be eligible for reimbursement be removed from the draft Bill.
7. The draft Bill should be amended to introduce 'truth in political advertising' laws. These laws should be modelled on South Australian legislation, but should only require the Commissioner to be satisfied that the advertisement is inaccurate and misleading to a material extent.
8. Consideration should be given to establishing a Political Advertising Commissioner, along with specific funding for this role.

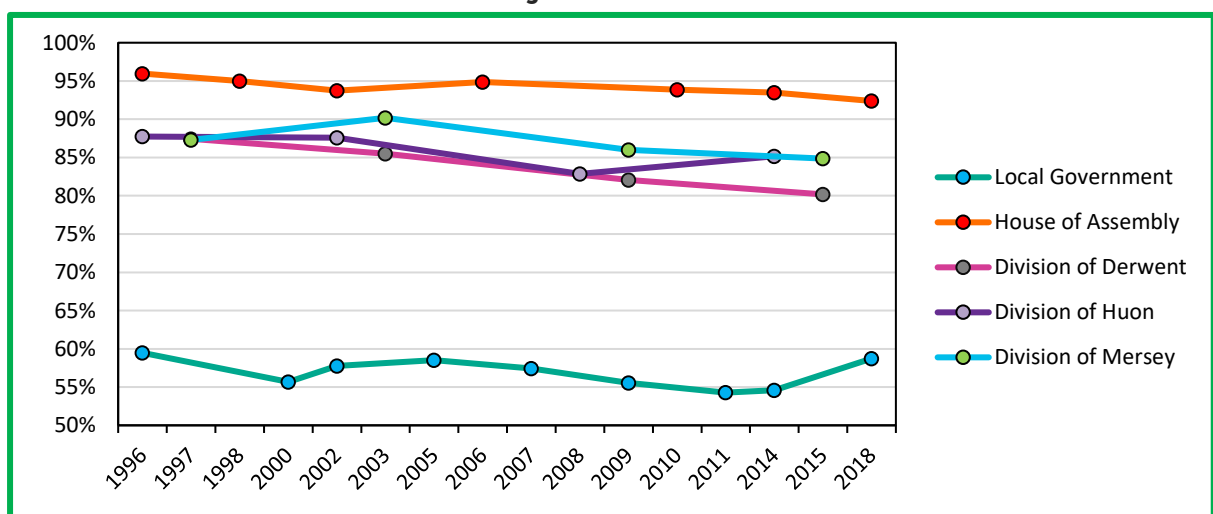
Public Trust

The proportion of Tasmanians enrolled to vote has been increasing since 2010, from 95.1% in 2010 to 96.6% in 2020.¹ Despite this, the number of voters turning up to vote at elections is declining.

Figure 1 shows voter turnout between 1996 and 2018 at elections for: House of Assembly; Local Government (combined); and three random Legislative Council Divisions.

All five show some decline in voting between 1996 and 2018. There is a consistent downward trend with all elections, although the Local Government and Division of Huon defied this trend in their recent elections.

Figure 1: Voter turnout for select elections: 1996-2018²



¹ Australian Electoral Commission, [National enrolment figures by state/territory](#), 2021.

² Data compiled from Tasmanian Election Commission [Election Reports](#).

Voter turnout is not a perfect civic engagement measure, but the OECD considers it the best available.³

Other indicators mirror this decline. For example, participation in civic and political groups declined from 12.8% in 2014⁴ to 12.2% in 2019.⁵ A 2018 assessment of apathy in Australian politics found 20% of voters are generally uninterested, 25% aren't interested in election campaigns, and 33% don't care who wins elections.

This trend is unhealthy to Australian democracy.

It challenges our understanding of the factors that influence people's engagement with politics. Even though the link between education levels and political knowledge and participation is well-documented, an increase in the overall level of education in Australia hasn't resulted in greater participation rates.⁶ And while other changes to key influences, such as income inequality⁷ and age,⁸ should be increasing political participation and knowledge – this doesn't appear to be happening.

This illustrates the complexity of civic engagement.

The decreasing participation of citizens has, however, been matched with a declining trust in politics. Polling by the Australian National University shows trust in political leaders and government has dropped, and satisfaction with democracy has deteriorated.⁹ Lack of trust in politics often has a negative impact on civic participation¹⁰ although this is by no means a simple, causal relationship.^{11,12}

Tasmania's electoral laws are the weakest in the country. Fixing the flaws in our political system is not the only answer to improving civic engagement, but it's a strong place to start.

In 2018, *ABC Fact Check* found Tasmania's donation laws would become the weakest in the country after the Victorian Government made reforms.¹³ In the two years since, Victoria has reformed their laws,¹⁴ and New South Wales,¹⁵ Queensland¹⁶ and the Northern Territory¹⁷ also passed reforms enhancing their political donations and

³ OECD, [Civic Engagement](#), n.d.

⁴ Australian Bureau of Statistics, [General Social Survey: Summary Results, Australia](#), 2014, Table 3.3.

⁵ Australian Bureau of Statistics, [General Social Survey: Summary Results, Australia](#), 2019, Table 15.3.

⁶ D E Campbell, [What is education's impact on civic and social engagement?](#), Chapter 3, *Measuring The Effects of Education on Health and Civic Engagement: Proceedings of The Copenhagen Symposium*.

⁷ F Solt, [Economic Inequality and Democratic Political Engagement](#), *American Journal of Political Science*, Vol. 52 (1), 2008.

⁸ L Saarelaht, [Despite strong gains in 2020 Australians remain disengaged with politics](#), The McKinnon Prize, 2020.

⁹ S Cameron and I McAllister, [Trends in Australian Political Opinion Results from the Australian Election Study 1987–2019](#), Australia National University, 2020.

¹⁰ M Evans, [Trust in politicians and government is at an all-time low. The next government must work to fix that](#), *The Conversation*, 2019.

¹¹ E A Bennett, A Cordner, P T Klein, S Savell, and G Baiocchi, [Disavowing Politics: Civic Engagement in an Era of Political Skepticism](#), *American Journal of Sociology*, Vol. 119 (2), 2013, pp. 518-48.

¹² OECD, [Trust in government, policy effectiveness and the governance agenda](#), Chapter 1, *Government at a Glance 2013*, 2013, p. 21.

¹³ ABC News, [Fact check: Does Tasmania have the weakest political donation laws in the nation?](#), Feb 2018.

¹⁴ ABC News, [Victoria's got strict new laws on political donations but what does it mean?](#), Jul 2018.

¹⁵ Parliament of Australia, [Election funding and disclosure in Australian states and territories: a quick guide](#), Nov 2018.

¹⁶ ABC News, [Political donations and election spending capped in Queensland as 'historic' laws pass Parliament](#), Jun 2020.

¹⁷ ABC News, [The NT political donations system has changed. But do the changes go far enough?](#), Aug 2020.

expenditure framework. Western Australia has progressed legislation to set expenditure limits and ban foreign donations.¹⁸

This means Tasmania has dropped even further behind the rest of the country than when it was declared to have the weakest donation laws. While these bills would offer some improvements the lack of donation limits, expenditure limits, and the equal highest donation disclosure threshold, would still make Tasmania the weakest jurisdiction.

Figure 2: Comparison of electoral finance laws by jurisdiction and proposed bill¹⁹

	Vic	NSW	Qld	WA	SA	NT	ACT	Aus	Tas
Donations									
Caps (per term/4 years)	\$4,160	\$26,400	\$10,000	-	-	-	-	-	-
Disclosure threshold	\$1,040	\$1,000	\$1,000	\$2,500	\$5,000	\$1,500	\$1,000	\$13,500	\$5,000
Third party donation limit	6	3	-	-	-	-	-	-	-
Disclosure time	21 Days	Annual	7 Days	Annual	After Election	Annual	Annual	Annual	7 Days
Third party regulation	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
Donors									
Foreign	Banned	-	Banned	Banned	-	-	-	-	Banned
Property	-	Banned	Banned	-	-	-	-	-	-
Tobacco	-	Banned	-	-	-	-	-	-	-
Gambling	-	Banned	-	-	-	-	-	-	-
Expenditure									
Party, per candidate	-	\$132,600	\$57,000	-	\$100,000	-	\$42,750	-	-
Party, per electorate	-	\$66,400	\$92,000	-	-	-	-	-	-
Party cap (X electorate)	-	\$132,600	-	\$125,000	\$75,000	\$40,000	-	-	-
Independent, per Seat	-	\$198,700	\$87,000	\$125,000	\$100,000	\$40,000	\$42,750	-	-
Public Funding									
\$ per first preference vote	\$6.25 ²⁰	\$4.66 ²¹	\$3.30 ²²	\$1.97 ²³	\$3.00 ²⁴	-	\$8.62 ²⁵	\$2.83 ²⁶	\$6.00

Cap on Donations

The argument for a limit on the value of donations is simple – money buys influence, and the larger the sum, the larger the influence. The *Senate Committee into the Political Influence of Donations* noted that although proving donations buy political outcomes is difficult, the weight of anecdotal evidence reinforcing this link is compelling.²⁷

The relevance of the sum of money donated is well-summarised by the comments of an anonymous politician in a 2018 study, *“If someone donates \$1000, they support you. If they donate \$100,000, they’ve bought you.”*²⁸

¹⁸ Parliament of Western Australia, [Electoral Amendment Bill 2020](#), Bill Progress.

¹⁹ Data Source: Information compiled from a range of pages from each jurisdiction’s respective Electoral Commission.

²⁰ Victorian Electoral Commission, [Yearly indexation of funding and donation thresholds 2018-2022](#), 2020.

²¹ NSW Electoral Commission, [Election Campaigns Fund](#), 2020.

²² Electoral Commission Queensland, [Fact sheet 20 - State elections: Election Funding Claims](#), 2020.

²³ Western Australian Electoral Commission, [Reimbursement of Electoral Expenditure](#), 2020.

²⁴ Electoral Commission South Australia, [Applying for public funding](#), n.d.

²⁵ ACT Electoral Commission, [Election funding](#), 2020.

²⁶ Australian Electoral Commission, [Election funding rates](#), 2020.

²⁷ Senate Committee into the Political Influence of Donations, [Senate Committee into the Political Influence of Donations: Final Report](#), Chapter 3: Political donations: A corrupting influence?, Parliament of Australia, 2018.

²⁸ Kypros, J McCambridge, N Robertson, F Martino, M Daube, P Adams, and P Miller, [“If someone donates \\$1000, they support you. If they donate \\$100,000, they’ve bought you.” Mixed methods study of tobacco, alcohol and gambling industry donations to Australian political parties](#), Drug and Alcohol Review, Vol. 38, 2018.

That said, the influence of smaller donations should not be discounted, as they can contribute to long-term relationship building²⁹ that influences policy in more subtle ways.

In 2018, a former Liberal Party Treasurer, Michael Yabsley, described habitual ‘soft corruption’ in the donations’ process – where donations are tied to a commitment to meet with particular ministers or political leaders.³⁰ Yabsley called for a donations cap of \$500.

The Senate Committee recognised any donations cap is relatively arbitrary, and on balance have recommended a donation cap of \$3,000 per term per donor.³¹

Regulations to cap donations should have two broad objectives; to decrease the potential influence of a donor by limiting the size of donations, and to reduce the imbalance of a person or corporation’s ability to support political preferences based on wealth.

A \$3,000 cap on donations in Tasmania would curtail the potential influence of any given donor, particularly as no cap currently exists. It also represents 0.375% of an \$800,000 expenditure cap. A \$3,000 cap would mean that risking the loss of revenue from a single donor would be more palatable for political parties.

The average amount Australians donated to charity in 2017-18 was \$764.³² This equates to \$3,056 over a four-year term – close to the \$3,000 donations cap proposed by the Senate Committee. While this does not perfectly level the playing field, it is a strong step towards limiting the unfair influence that comes with having higher income.

Recommendation 1: The draft Bill should be amended to include a cap of \$3,000, on aggregate political donations from the same source, per electoral term, in line with the recommendations of the Senate Committee into the Political Influence of Donations.

Eligibility for Political Donations

Various jurisdictions in Australia have banned donations from foreign actors, property, tobacco and gambling industries. This draft Bill only proposed a ban on foreign donations.

Electoral reform that continues to invite substantial donations from sectoral and vested interests is not substantial reform. It won’t remove the corrupting influence of vested interests such as Tasmanians saw during the 2018 State Election campaign.

Figure 3: Comparison of electoral donation restrictions by jurisdiction to this bill³³

	Vic	NSW	Qld	WA	SA	NT	ACT	Aus	Tas
Foreign Donors	Banned	-	Banned	Banned	-	-	-	Banned	Banned
Property Donors	-	Banned	Banned	-	-	-	-	-	-
Tobacco Donors	-	Banned	-	-	-	-	-	-	-
Liquor and Gambling Donors	-	Banned	-	-	-	-	-	-	-

²⁹ Ibid, p. 17.

³⁰ S Dingle and D Lewis, [Liberal Party statesman calls for political donations reform as report highlights millions gifted anonymously](#), ABC News, Oct 2018.

³¹ Senate Committee into the Political Influence of Donations, [Senate Committee into the Political Influence of Donations: Final Report](#), Chapter 6 Safeguarding integrity, Parliament of Australia, 2018.

³² Philanthropy Australia, [Giving in Australia: the fast facts](#), Sep 2020.

³³ Data Source: Information compiled from a range of pages from each jurisdiction’s respective Electoral Commission.

Canadian donation laws go further, allowing only ‘natural persons’ who are citizens or permanent residents to donate to political parties.³⁴

Similar provisions to prohibit donations from anyone not on the electoral roll were enacted in New South Wales in 2012. This law was overturned by the High Court in 2013.³⁵ The Court’s judgment was based on a failure to satisfy the *Lange* test³⁶, which requires that limits on freedom of political communication be –

“. . .reasonably appropriate and adapted, or proportionate, to serve a legitimate end in a manner which is compatible with the maintenance of the prescribed system of representative government.”³⁷

The High Court found there was no clear purpose articulated for the prohibition, and on that basis rejected the provision as unconstitutional.³⁸ The provision itself was therefore not found to be intrinsically unconstitutional – rather NSW had not clearly stated the aims and evidence for that provision.

NSW also required a person to be registered on the electoral roll, whereas the Canadian laws only require a person to be a ‘natural person’ (i.e. not a corporation), as well as either a citizen or permanent resident, which are less restrictive requirements.

The objectives of each of these laws are clear – to prevent financial influence by attempting to buy a political outcome, and to prevent the privileged access to political influence that comes with corporations being able to donate money.

Recommendation 2: The draft Bill should be amended to only allow political donations from ‘natural persons’ who are citizens or permanent residents.

Real-time Disclosure

Tasmania’s donation disclosure framework is currently only covered by inadequate federal legal requirements. Federal laws require reporting by February on the previous financial year’s donations. This means donations can take up to 18 months to be disclosed.³⁹

There was general agreement among submitters to the 2018 Senate Inquiry that disclosure in real-time was the most desirable approach to donation disclosure.⁴⁰

Real-time disclosure means setting a relatively brief timeframe, from the time of receipt to the public disclosure of a donation. Under the current system, disclosure is at a fixed date

³⁴ Library of Congress, [Regulation of Campaign Finance and Free Advertising: Canada](#), 2020.

³⁵ High Court of Australia, [Unions NSW v New South Wales](#), 2013, HCA 58.

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Senate Committee into the Political Influence of Donations, [Senate Committee into the Political Influence of Donations: Final Report](#), Chapter 5: Barriers to transparency, Parliament of Australia, 2018, p. 74.

⁴⁰ Ibid, p. 75.

(which could be well after an election) when a report of all donations required to be disclosed must be submitted.

Queensland requires donations to be disclosed 7 business days after being received, except in the 7 days before polling day when disclosure must be within 24 hours.⁴¹ This ensures virtually all donations received before an election are publicly available for scrutiny. Victoria, the only other state to adopt real-time disclosure laws, requires a 21-day timeframe,⁴² which is not optimum for public scrutiny just prior to an election.

Tasmania's election campaign period can be between 22 and 30 days before polling day.⁴³ If Victoria's 21-day disclosure timeframe was adopted, somewhere around 70-95% of Tasmanian donations would not have to be disclosed before polling day.

Again, this is unhealthy for democracy and the conduct of free and fair elections.

Recommendation 3: The draft Bill should be amended to reflect Queensland's real-time disclosure framework, requiring donation disclosures 7 business days after receipt, and within 24 hours during the 7 days before polling day.

Electoral Expenditure Caps

Tasmania and Victoria are the only Australian jurisdictions without expenditure caps for lower house elections (figure 4). Federal elections also do not have expenditure caps.

Most jurisdictions impose a cap on spending for independent candidates, and a cap on parties (an amount multiplied by the number of electorates the party is contesting). This cap can often be distributed across electorates, in excess of a candidate's electorate cap.

Other than the ACT, all jurisdictions differ from Tasmania in that they have single member electorates. Therefore, the prevailing formula would not work for Tasmania.

Figure 4: Comparison of electoral expenditure caps by jurisdiction⁴⁴

	Party / Candidate	Party / Electorate	Party Cap (X Electorate)	Independent	Members / Electorate	Electorates
Vic	-	-	-	-	1	88
NSW	\$132,600	\$66,400	\$132,600	\$198,700	1	93
Qld	\$57,000	\$92,000	-	\$87,000	1	93
WA	-	-	\$125,000	\$125,000	1	59
SA	\$100,000	-	\$75,000	\$100,000	1	47
NT	-	-	\$40,000	\$40,000	1	25
ACT	\$42,750	-	-	\$42,750	5	5
Aus	-	-	-	-	1	151
Tas	-	-	-	-	5	5

In 2013, the *Electoral Amendment (Electoral Expenditure and Political Donations) Bill 2013* passed the Tasmanian House of Assembly, but stalled at the first reading stage in the Legislative Council.⁴⁵ The Bill would have imposed expenditure caps of \$75,000 for

⁴¹ State of Queensland, *Electoral Regulation 2013*.

⁴² State of Victoria, *Electoral Act 2002*, Part 12, Division 3, pp. 252-256.

⁴³ State of Tasmania, *Electoral Act 2004*, s. 70.

⁴⁴ Data Source: Information compiled from a range of pages from each jurisdiction's respective Electoral Commission.

⁴⁵ Parliament of Tasmania, *Electoral Amendment (Electoral Expenditure and Political Donations) Bill 2013*, 2013 Bills.

candidates and \$750,000 for a party, increasing by \$1,000 and \$10,000 each year respectively.⁴⁶

A key distinction between the Bill's model and what occurs in other jurisdictions is the overall party cap is not tied to the number of candidates – or the number of electorates – in which a party runs.

At 2020, a cap under this proposed model of \$810,000 would equate to a cap of either \$162,000 per electorate; or \$32,400 per candidate (at five candidates in an electorate).

In 2018, the Liberals, Labor and Greens all fielded five candidates in each electorate.⁴⁷ The other parties to run candidates were the Jacqui Lambie Network, T4T (Tasmanians 4 Tasmania), and the Shooters, Fishers and Farmers Party.

Figure 5 shows these other parties were significantly short of the expenditure cap that would be applied if the 2013 proposal was adapted to either an electorate or candidate-based donation cap scheme.

Figure 5: Minor party 2018 election statistics⁴⁸

	Electorates	Candidates	Expenditure	Electorate Cap	Candidate Cap
T4T	2	4	\$0	\$324,000	\$129,600
Jacqui Lambie Network	3	12	\$93,255	\$486,000	\$388,800
Shooters, Fishers and Farmers Party	4	11	\$59,314	\$648,000	\$356,400

The proposed party cap under the *Electoral Amendment (Electoral Expenditure and Political Donations) Bill 2013* was ten times higher than an individual candidate cap. The average electorate expenditure would, therefore, allow for twice as much expenditure as an independent candidate to cover the campaigns of five party-endorsed candidates.

On an individual level, this would provide for lower candidate expenditure for endorsed party candidates compared to independents. However, given parties have access to professional electoral apparatus, dedicated volunteer workforces, and can promote a shared platform, this unproportionate system is justified on the grounds that it engenders more equity between independent and party candidates.

The *Electoral Amendment (Electoral Expenditure and Political Donations) Bill 2013* was widely consulted on, and did not create any controversy.⁴⁹ Given the acceptance of the proposed expenditure cap, and the historic practical irrelevance of adjusting the cap formula based on the approach of other jurisdictions, there is no need to alter the proposal.

Recommendation 4: The draft Bill should be amended to include an expenditure cap for House of Assembly elections of \$81,000 for individual candidates and \$810,000 for political parties in 2020, indexed by \$1,000 and \$10,000 respectively per year.

⁴⁶ Parliament of Tasmania, [Electoral Amendment \(Electoral Expenditure and Political Donations\) Bill 2013](#).

⁴⁷ Tasmanian Electoral Commission, [2018 State Election Results](#).

⁴⁸ Australian Electoral Commission, [Political Party Returns](#), AEC Transparency Register.

⁴⁹ Parliament of Tasmania, [Electoral Amendment \(Electoral Expenditure and Political Donations\) Bill 2013 Fact Sheet](#), 2013.

Public Funding of Election Campaigns

In Australia, public funding of election campaigns operates as a reimbursement of electoral expenditure based on the lower value of a dollar figure per first preference vote, or total electoral expenditure.⁵⁰ The intent of public funding is to level the playing field for candidates and reduce the reliance on, and influence from, private and corporate donations.⁵¹

Every Australian jurisdiction, other than Tasmania and the Northern Territory, has legislated public funding of elections. Progress has been made in the Northern Territory, with a 2018 inquiry recommending public funding. The NT Government accepted this recommendation in principle, but has not yet enacted changes.⁵²

The funding rate in jurisdictions ranges from \$1.97 to \$8.62 per first preference vote – averaging at \$4.38. An estimate of the total coverage of electoral expenditure produces a range of 14% to 53%. The coverage, however, can be unpredictable from election to election. On 2020 numbers, the average maximum coverage rate was 35% across Australia (Figure 6), whereas an assessment using the same methodology in early 2019 found an average maximum coverage rate of 52%.⁵³

Figure 6: Public funding of elections by jurisdiction⁵⁴

Jurisdiction	Labor	Greens	Liberals	Total ⁵⁵	Voters ⁵⁶	Funding	Total Cost ⁵⁷	Coverage ⁵⁸
Australia	\$50,767,513	\$4,489,151	\$43,537,437	\$98,794,101	16,722,156	\$2.83 ⁵⁹	\$47,323,701	48%
ACT	\$2,668,439	\$535,944	\$1,790,105	\$4,994,488	304,524	\$8.62 ⁶⁰	\$2,624,997	53%
NSW	\$18,153,347	\$6,987,548	\$48,364,378	\$73,505,273	5,328,989	\$4.66 ⁶¹	\$24,833,089	34%
VIC	\$29,109,394	\$6,190,688	\$32,720,536	\$68,020,618	4,266,039	\$6.25 ⁶²	\$26,662,744	39%
QLD	\$15,908,937	\$1,596,334	\$16,842,285	\$34,347,556	3,368,831	\$3.30 ⁶³	\$11,117,142	32%
WA	\$9,816,907	\$1,943,644	\$12,610,057	\$24,370,608	1,693,059	\$1.97 ⁶⁴	\$3,335,326	14%
SA	\$4,914,699	\$472,998	\$7,957,593	\$13,345,290	1,227,189	\$3.00 ⁶⁵	\$3,681,567	28%
Average						\$4.38		35%

Figure 7 presents the costs for public funding of House of Assembly elections in Tasmania, under various scenarios. The assessment examines a business as usual scenario, a party expenditure cap of \$810,000 scenario, and an expenditure cap and \$3,000 donations cap scenario. These three scenarios are tested against the Australian

⁵⁰ Australian Electoral Commission, [Election funding](#), 2020.

⁵¹ Joint Standing Committee on Electoral Matters, [Inquiry into the funding of political parties and election campaigns](#), Chapter 6, Parliament of Australia, 2011.

⁵² S Vivian, [The NT political donations system has changed. But do the changes go far enough?](#), ABC News, August 2020.

⁵³ Tasmanian Greens MPs, [Electoral Act Review Submission](#), 2019.

⁵⁴ Note: assessment done on an 'if an election was held today' basis, assumes donations equal to jurisdiction's previous election.

⁵⁵ Australian Electoral Commission, [AEC Transparency Register](#), 2019.

⁵⁶ Australian Electoral Commission, [Size of the electoral roll and enrolment rate 2020](#), 2020.

⁵⁷ Note: this is a maximum cost, and would be lower due to voter turn out, ineligible votes, candidates not reaching a threshold, and the distribution of votes not perfectly aligning with electoral expenditure.

⁵⁸ Note: this is a maximum coverage rate, and would be lower due to voter turn out, ineligible votes, candidates not reaching a threshold, and the distribution of votes not perfectly aligning with electoral expenditure.

⁵⁹ Australian Electoral Commission, [Election funding rates](#), 2020.

⁶⁰ ACT Electoral Commission, [Election funding](#), 2020.

⁶¹ NSW Electoral Commission, [Election Campaigns Fund](#), 2020.

⁶² Victorian Electoral Commission, [Yearly indexation of funding and donation thresholds 2018-2022](#), 2020.

⁶³ Electoral Commission Queensland, [Fact sheet 20 - State elections: Election Funding Claims](#), 2020.

⁶⁴ Western Australian Electoral Commission, [Reimbursement of Electoral Expenditure](#), 2020.

⁶⁵ Electoral Commission South Australia, [Applying for public funding](#), n.d.

average funding rate of \$4.38 per vote, the funding required to meet the Australian average coverage rate of 35%, and using the Australian rate of \$2.83 per vote.

Figure 7: Public funding of elections in Tasmania by scenario

	Labor	Greens	Liberals	Total ⁶⁶	Voters ⁶⁷	Funding	Cost ⁶⁸	Coverage ⁶⁹
Australian average funding								
Business as usual	\$928,050	\$547,059	\$4,322,681	\$5,797,790	390,450	\$4.38	\$1,710,171	29%
Expenditure cap	\$810,000	\$547,059	\$810,000	\$2,167,059	390,450	\$4.38	\$1,710,171	79%
Expenditure cap, donations cap	\$690,722	\$479,559	\$810,000	\$1,980,281	390,450	\$4.38	\$1,710,171	86%
Australian average coverage								
Business as usual	\$928,050	\$547,059	\$4,322,681	\$5,797,790	390,450	\$5.20	\$2,029,227	35%
Expenditure cap	\$810,000	\$547,059	\$810,000	\$2,167,059	390,450	\$1.94	\$758,471	35%
Expenditure cap, donations cap	\$690,722	\$479,559	\$810,000	\$1,980,281	390,450	\$1.78	\$693,098	35%
Australian rate								
Business as usual	\$928,050	\$547,059	\$4,322,681	\$5,797,790	390,450	\$2.83	\$1,104,974	19%
Expenditure cap	\$810,000	\$547,059	\$810,000	\$2,167,059	390,450	\$2.83	\$1,104,974	51%
Expenditure cap, donations cap	\$690,722	\$479,559	\$810,000	\$1,980,281	390,450	\$2.83	\$1,104,974	56%

Under an expenditure and donations cap scenario, the maximum costs range from \$693,098 to \$1,710,171 every four years, and the maximum coverage ratio ranges from 35% to 86%.

In determining an appropriate funding level, it is worth noting that the 2011 *Inquiry into the funding of political parties and election campaigns*, by the Federal Parliament Joint Standing Committee on Electoral Matters, found the public funding scheme at the time had not been effective at curbing the increase of election spending.⁷⁰ An assessment of expenditure since then suggests this is still the case.⁷¹

This suggests that in a vacuum, public funding has done little to curb the influence of political donations. However, the Federal scheme has not operated in an environment with strict expenditure and donation caps, or with bans on donations from corporate interests. The effect a public funding scheme would have, where other limits are in place, remains to be seen.

The committee did, however, recognise that repealing the scheme would have a detrimental effect on minor parties, suggesting that the objective of levelling the playing field has been effective.⁷²

Adopting the Australian rate would provide Tasmania with the second lowest cost, after Western Australia, of any state scheme, while also providing the highest maximum

⁶⁶ Australian Electoral Commission, [AEC Transparency Register](#), 2019. Note: donations cap calculated on available information.

⁶⁷ Australian Electoral Commission, [Size of the electoral roll and enrolment rate 2020](#), 2020.

⁶⁸ Note: this is a maximum cost, and would be lower due to voter turn out, ineligible votes, candidates not reaching a threshold, and the distribution of votes not perfectly aligning with electoral expenditure.

⁶⁹ Note: this is a maximum coverage rate, and would be lower due to voter turn out, ineligible votes, candidates not reaching a threshold, and the distribution of votes not perfectly aligning with electoral expenditure.

⁷⁰ Joint Standing Committee on Electoral Matters, [Inquiry into the funding of political parties and election campaigns](#), Chapter 6, Parliament of Australia, 2011.

⁷¹ Australian Electoral Commission, [AEC Transparency Register](#), 2019.

⁷² Joint Standing Committee on Electoral Matters, [Inquiry into the funding of political parties and election campaigns](#), Chapter 6, Parliament of Australia, 2011.

coverage rate based on projections of 2018 expenditure under proposed new donation rules.

Considering the available evidence of effectiveness as well as the effect of other reforms, the costs to the public purse and expectations of the general public, tying the Tasmanian public funding rate to the Australian rate would be a reasonable first step.

Each jurisdiction where public funding for elections occurs requires a minimum of 4% of the primary vote for eligibility,^{73,74,75,76,77,78} with the exception of 6% in Queensland.

The 4% minimum vote threshold was criticised by the Federal Parliament Joint Standing Committee on Electoral Matters, which noted

“minor parties and independent candidates can attract significant electoral support without passing the 4 per cent threshold for receiving public funding.”⁷⁹

The only rationale for a threshold canvassed by the committee was for cost-saving purposes.⁸⁰

Public funding schemes are based on a monetary value being assigned to a first preference vote, as such there is a strict ceiling (the number of enrolled voters) on amounts payable. Excluding eligibility on the basis of a voting threshold, therefore, has minimal implications for public cost, but may deter potential candidates who are not in a financial position to risk not qualifying for a rebate.

Figure 8: Candidates receiving less than 4% of vote in 2018 House of Assembly elections⁸¹

	Bass	Braddon	Denison	Franklin	Lyons	Total
Brett Edwards	597					597
Shooters, Fishers and Farmers		1611	1190	2041	2798	7,640
T4T		276	709			985
Brenton Best		593				593
Craig Garland		1967				1,967
Liz Hamer		141				141
Tenille Murtagh					153	153
Kim Peart					158	158
Total						12,234

Figure 8 examines candidates and political parties that received less than 4% of the vote on aggregate across the electorates they ran candidates in during the 2018 House of Assembly election. The total number of votes that would have been excluded for payment under a 4% scheme was 12,234 out of 334,871 total formal votes.

Under a \$2.83 per first preference vote scheme a 4% threshold would have saved \$34,622 from a total \$947,684 bill. This is a paltry 3.6% saving.

⁷³ Australian Electoral Commission, [Election funding](#), 2020.

⁷⁴ ACT Electoral Commission, [Election funding](#), 2020.

⁷⁵ Western Australian Electoral Commission, [Reimbursement of Electoral Expenditure](#), 2020.

⁷⁶ Electoral Commission South Australia, [Applying for public funding](#), n.d.

⁷⁷ Victorian Electoral Commission, [Funding](#), 2020.

⁷⁸ NSW Electoral Commission, [Election Campaigns Fund](#), 2020.

⁷⁹ Joint Standing Committee on Electoral Matters, [Inquiry into the funding of political parties and election campaigns](#), Chapter 6, Parliament of Australia, 2011.

⁸⁰ Ibid.

⁸¹ Tasmanian Electoral Commission, [2018 State Election Results](#), 2018.

Recommendation 5: That public funding in the draft Bill be linked to an expenditure cap, and the draft Bill be amended to reduce the public funding rate per first preference vote to the Commonwealth rate (\$2.83).

Recommendation 6: That the requirement that a candidate or party receives 4% of the primary vote in order to be eligible for reimbursement be removed from the draft Bill.

Truth in Political Advertising

Truth in political advertising laws are provisions which prohibit false statements in political advertising during election campaigns. These laws can establish offences or allow for the removal of statements.

South Australia was the first jurisdiction in Australia to introduce truth in political advertising laws in 1985 (with the exception of Commonwealth laws which were passed in 1983 but repealed a year later).⁸² In 2020, the ACT passed laws modelled on South Australia's.⁸³

The South Australian provisions, which ban a *'statement purporting to be a statement of fact that is inaccurate and misleading to a material extent'*, were found to be the strongest example of such a law by a 2019 United Kingdom analysis.⁸⁴

Despite some issues with the legislation, the assessment found the laws to be reliable, workable and fair.⁸⁵

The scope of truth in political advertising laws are deliberately tight – they apply to *'a statement of fact that is inaccurate and misleading to a material extent'*.

In South Australia, the Electoral Commission has to seek legal advice from the Crown Solicitor's Office to determine if a statement is misleading, which takes considerable time. The SA Commission has also received paperwork *"some 22-25 cm high"* in the form of supporting documentation.⁸⁶ Such tactics could be used to delay a decision until after election day – particularly during the crucial last days of a campaign.⁸⁷

The South Australian Electoral Commission, which administers SA's truth in political advertising laws, has been critical of their role in administering the law – a scepticism

⁸² G Williams, [Truth in Political Advertising Legislation in Australia](#), Law and Bills Digest Group, Parliamentary Library, Parliament of Australia.

⁸³ J Evans, [ACT passes new political advertising laws to ensure voters are not 'deceived on the way to the ballot box'](#), ABC News, Aug 2020.

⁸⁴ A Renwick and M Palese, [Doing Democracy Better: How Can Information and Discourse in Election and Referendum Campaigns in the UK Be Improved?](#), University College London, The Constitution Unit, 2019, p. 22.

⁸⁵ Ibid, p.p. 38-39.

⁸⁶ Victorian Electoral Commission, [Inquiry into the impact of social media on elections and electoral administration: Submission from the Victorian Electoral Commission](#), 2020, p. 14.

⁸⁷ A Renwick and M Palese, [Doing Democracy Better: How Can Information and Discourse in Election and Referendum Campaigns in the UK Be Improved?](#), University College London, The Constitution Unit, 2019, p. 39.

shared by the Victorian Electoral Commission when submitting to an inquiry around similar laws.⁸⁸

Complaints made include the time needed to administer disputes can draw substantial resources away from the key role of managing elections, that it's not the core business of Electoral Commissions to discern truth, disputes can take much time to resolve, and it undermines the independence of the Commission if they become involved in political controversy.⁸⁹

Recommendation 7: The draft Bill should be amended to introduce 'truth in political advertising' laws. These laws should be modelled on South Australian legislation, but should only require the Commissioner to be satisfied that the advertisement is inaccurate and misleading to a material extent.

Recommendation 8: Consideration should be given to establishing a Political Advertising Commissioner, along with specific funding for this role.

Thank you for your consideration. Dr Woodruff MP and I look forwarding to examining the final bills when they are tabled in Parliament.

Yours sincerely,



Cassy O'Connor MP
Tasmanian Greens Leader
Member for Clark

⁸⁸ Victorian Electoral Commission, [Inquiry into the impact of social media on elections and electoral administration: Submission from the Victorian Electoral Commission](#), 2020, pp. 12-14.

⁸⁹ Ibid.