



# Submission to the Inquiry into the Electoral Disclosure and Funding Amendment Bill 2024 (No. 9)

Tasmanian Policy Exchange

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## Acknowledgment of Country

The University of Tasmania pays its respects to elders past and present and to the many Aboriginal people that did not make elder status and to the Tasmanian Aboriginal community that continues to care for Country.

We acknowledge the profound effect of climate change on this Country and seek to work alongside Tasmanian Aboriginal communities, with their deep wisdom and knowledge, to address climate change and its impacts.

The Palawa people belong to one of the world's oldest living cultures, continually resident on this Country for over 65,000 years. They have survived and adapted to significant climate changes over this time, such as sea-level rise and extreme rainfall variability, and as such embody thousands of generations of intimate place-based knowledge.

We acknowledge with deep respect that this knowledge represents a range of cultural practices, wisdom, traditions, and ways of knowing the world that provide accurate and useful climate change information, observations, and solutions.

The University of Tasmania likewise recognises a history of truth that acknowledges the impacts of invasion and colonisation upon Aboriginal people, resulting in forcible removal from their lands.

Our island is deeply unique, with cities and towns surrounded by spectacular landscapes of bushland, waterways, mountain ranges, and beaches.

The University of Tasmania stands for a future that profoundly respects and acknowledges Aboriginal perspectives, culture, language, and history, and a continued effort to fight for Aboriginal justice and rights paving the way for a strong future.

## Other acknowledgements

The authors would like to thank Sarah Hyslop for her editing support.

## Disclaimer

The views expressed herein are not necessarily the views of the University of Tasmania. The University of Tasmania does not accept responsibility for any information or advice contained within this document.

## Democracy under threat globally, and Australia cannot be complacent.

Democracy is on the backfoot around the world. According to Freedom House, an international NGO that tracks political rights and civil liberties, 80% of the world's population lives in countries classed as 'Not Free' or 'Partly Free' in 2023.<sup>1</sup> Compared to 2022, rights and freedoms decreased in 26% of countries, and improved in only 10%. Similarly, the Economist Intelligence Unit's global Democracy Index average score fell significantly between 2006 and 2023.<sup>2</sup> Its latest report argues that non-democratic regimes are becoming more entrenched and hybrid regimes are struggling to democratise.

So far, Australia has resisted largescale democratic backsliding. We are still rated as 'Free' by Freedom House, and although our Democracy Index score has been falling, we are still classed as a full democracy. The Australian population also demonstrates relatively high levels of satisfaction with democracy compared to other countries. The 2023 *Trust and Satisfaction in Australian Democracy* report found that 59% of respondents were satisfied or very satisfied with the way that democracy works in Australia.<sup>3</sup>

However, our democracy still faces significant challenges. *Trust and Satisfaction in Australian Democracy* found that women, people on low incomes, the unemployed, and residents in regional areas were less satisfied with our political system than the general population. People who had experienced negative life events (e.g. a serious mental health crisis or financial hardship) also reported less satisfaction with democracy and lower trust in public institutions. Additionally, *Trust and Satisfaction in Australian Democracy* identified some specific areas of concern:

- 53% of respondents agreed that Australia's democracy is on the right track
- 49% of respondents believe that corruption is a widespread issue in Australia's democratic institutions and processes
- 72% of respondents believe that most people don't understand when information in the media is misleading or fake during elections
- 44% of respondents agreed that politicians and government services deal with the issues that matter to them
- 26% of respondents said they trust or strongly trust political parties

These results demonstrate a need to strengthen the Australian political system by improving transparency and accountability, reducing the influence of 'big money', and countering dis- and misinformation. Addressing these challenges will help to rebuild public trust in our political system.

There is no publicly available, Tasmania-specific data on trust and satisfaction in our political system. However, the 2024 House of Assembly election demonstrated significant dissatisfaction with the two major parties, resulting in a crossbench of 11 MPs. There were also indications of broader dissatisfaction with the Tasmanian political system: the informal voting rate of 6.3% was the second highest ever, up from 5.13% in 2021.<sup>4</sup> While this increase may have been caused by changed voting requirements, historical data shows that a significant portion of the informal vote in Tasmania is deliberate. For example, at the 2021

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<sup>1</sup> See [Freedom House 2024](#)

<sup>2</sup> See [Economist Intelligence Unit 2024](#)

<sup>3</sup> See [Australian Public Service Commission 2023](#)

<sup>4</sup> See [ABC 2024](#)

election, more than 42% of informal votes were deliberate, with people writing messages on the ballot paper or simply leaving it blank. 2024 data have not yet been released.

Further to this, the most recently available data show that many Tasmanians do not feel like they have a say in Tasmania's future: in 2021, the UTAS Institute for the Study of Social Change found that only 31% of respondents felt that they had the opportunity to influence decisions on Tasmania's future.<sup>5</sup>

## **Tasmania requires political finance reform to rebuild public trust in our politicians and system of government.**

Over the past decade, all Australian mainland states have implemented significant political finance reforms in response to public demands for greater regulation and transparency relating to political donations and campaign spending. Tasmania has failed to do the same. The Tasmanian Parliament passed the *Electoral Disclosure and Funding Act 2023* in November 2023, but the majority of the Act has not yet commenced. Even after it comes into force, Tasmania's regulatory regime will remain relatively weak, with a political donation disclosure limit of \$5,000 – equal highest in Australia.<sup>6</sup>

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“... regulations related to the funding of political parties and election campaigns, commonly known as **political finance**, are a critical way to promote integrity, transparency and accountability in any democracy”

– [\*International IDEA 2020\*](#)

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This high disclosure threshold is made more concerning by the fact that Tasmanian election campaigns are likely cheaper than those in larger and more expensive media markets. In other words, the relative value of a \$5,000 donation in Tasmania is greater than an equivalent contribution in, for example, South Australia (the only other Australian state with a \$5,000 disclosure threshold).

We must deliver more ambitious reforms to Tasmania's political finance system, with the goal of improving accountability, transparency, and integrity.

## **The *Electoral Disclosure and Funding Amendment Bill 2024* includes a range of important measures that will improve Tasmania's political finance system.**

The proposed *Electoral Disclosure and Funding Amendment Bill 2024* (the Amendment Bill 2024) aims to strengthen the *Electoral Disclosure and Funding Act 2023*. We believe that this is vital, and support the following measures included in the Amendment Bill 2024:

- The reduction in the threshold for 'reportable donations to a candidate, member of parliament (MP), registered party, associated entity, or third-party campaigner' (referred to hereafter as 'political donations') from \$5,000 to \$1,000.
- The introduction of more rapid reporting of political donations, particularly during election periods.
- The introduction of caps on political donations.
- The introduction of campaign expenditure caps for House of Assembly elections.

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<sup>5</sup> See [Lester et al. 2021](#)

<sup>6</sup> See [Muller 2022](#)

- The introduction of penalties for misleading advertising during election campaigns.

However, there are several areas in which the Amendment Bill 2024 could be improved.

### **Tasmania can lead the way on using political finance reform to improve transparency, accountability, and integrity.**

With this goal in mind, we recommend six changes to the Amendment Bill 2024.

#### **Recommendation 1: Indexation of caps and thresholds**

The Amendment Bill 2024 proposes flat caps for political donations and campaign expenditure, and for political donation disclosure thresholds. It should identify how the caps and thresholds will be indexed, so that they keep pace with changing costs. For example, The NSW *Electoral Funding Act 2018* states that caps are adjusted for inflation each financial year.

#### **Recommendation 2: Reduce delays in the disclosure of political donations**

The Amendment Bill 2024 proposes that reportable political donations made within seven days before polling day should be disclosed to the Tasmanian Electoral Commission (TEC) within 24 hours of receipt, and then published by the TEC within 24 hours of it receiving disclosure. Political donations made outside this timeframe must be declared to the TEC within 7 days of receipt, then published by the TEC within seven days of it receiving disclosure.

Instead, the Amendment Bill 2024 should propose that the 24-hour disclosure and 24-hour publication timeframes apply from the point at which the writs are issued until 48 hours before polling day. Further to this, it should propose that no political donations be permitted in the 48 hours before polling day, to ensure that there is no opportunity for donations to be made without public scrutiny. Outside of election campaigns, reportable political donations should be disclosed within seven days of receipt, then published by the TEC on a publicly accessible online database within seven days.

These timeframes would bring Tasmania closer to ‘real-time disclosure’ than any other Australian jurisdiction, and would align the state with Recommendation 2 from the Joint Standing Committee on Electoral Matters’ *Conduct of the 2022 federal election and other matters: Interim Report*. Real-time disclosure is recommended as best practice by Transparency International.<sup>7</sup>

#### **Recommendation 3: Clarify the applicability of political donation caps**

The Amendment Bill 2024 should clarify that the cap on political donations applies to candidates and parties seeking election in the House of Assembly and those seeking election in the Legislative Council.

#### **Recommendation 4: Ensure equitable administrative funding for MPs**

The Amendment Bill 2024 proposes new political donation caps that will apply equally to all members of Tasmanian Parliament. This will impose additional administrative costs on all Members of the House of Assembly (MHAs) and Members of the Legislative Council (MLCs). However, under the *Electoral Disclosure and Funding Act 2023*, parties represented

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<sup>7</sup> See [Transparency International 2016](#)

in the House of Assembly and independent MHAs are entitled to claim payments from the Administration Fund to cover their administrative expenditure (up to defined limits).

To ensure equity, the Amendment Bill 2024 should propose that MLCs are also entitled to claim payments from the Administration Fund to cover their administrative expenditure.

### **Recommendation 5: Support enforcement of truth in political advertising**

The Amendment Bill 2024 proposes penalties for people who publish or permit the publication of inaccurate or misleading electoral advertisements. To support the effective enforcement of these penalties, the Tasmanian Government should establish and adequately resource a division within the TEC focused on electoral mis- and disinformation. This approach would be aligned with Recommendation 12 from the Joint Standing Committee on Electoral Matters' *Conduct of the 2022 federal election and other matters: Interim Report*.<sup>8</sup>

### **Recommendation 6: All political donations by corporate and organisational interests should be disclosed to the public**

The Amendment Bill 2024 proposes banning donations from entities other than 'natural persons'. This would stop corporations and other organisations – such trade unions and non-government organisations – from making political donations, with the goal of preventing “corporate or organisational interests exerting (or being perceived to exert) undue or improper influence on the outcomes of elections”. The risk of political corruption via donations from corporate and organisational interests cannot be discounted. However, we believe that these entities can have legitimate political interests and should be free to exercise these via donations. Moreover, a ban on all political donations from corporate and organisational interests would likely be subject to a challenge in the High Court.<sup>9</sup>

We argue that if political donations from corporate and organisational interests are permitted, all such donations should be disclosed to the public – regardless of amount. The right of all people to freely and privately “determine their political status and... choose the form of their constitution or government”<sup>10</sup> is a cornerstone of Australian democracy.<sup>11</sup> However, we believe that this right to privacy of political expression does not apply to corporate and organisational interests. Therefore, we suggest that the Amendment Bill 2024 should permit corporate and organisational donations (subject to all other rules applying to natural persons) but with a disclosure threshold of \$0 (i.e., corporate donations cannot be anonymous). This preserves the ability of corporate and organisational interests to freely exercise legitimate political interests while maintaining public transparency and accountability.

### **It's time to take bold action.**

In a period of global democratic decline and growing public disenchantment with Australian democracy, Tasmania has an opportunity to lead the way on political finance reform. The

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<sup>8</sup> See [Joint Standing Committee on Electoral Matters 2022](#)

<sup>9</sup> See [Joint Committee on Electoral Matters 2011](#)

<sup>10</sup> See [Australian Human Rights Commission 2024](#)

<sup>11</sup> This right is embodied by the concept of the secret ballot. When setting a disclosure threshold for political donations, this right must be balanced against the corrosive effects of corruption and the need to maintain equality by preventing wealthy citizens from buying influence.

measures proposed in the Amendment Bill 2024 – supplemented by the recommendations above – would go a long way towards rebuilding public trust in our state’s political system. *Trust and Satisfaction in Australian Democracy* found that 80% of Australians believe it is worth trying to fix the problems of our democracy. Our political leaders must step up to this challenge, and take bold action to bring accountability, transparency and integrity back to the heart of Tasmanian politics.