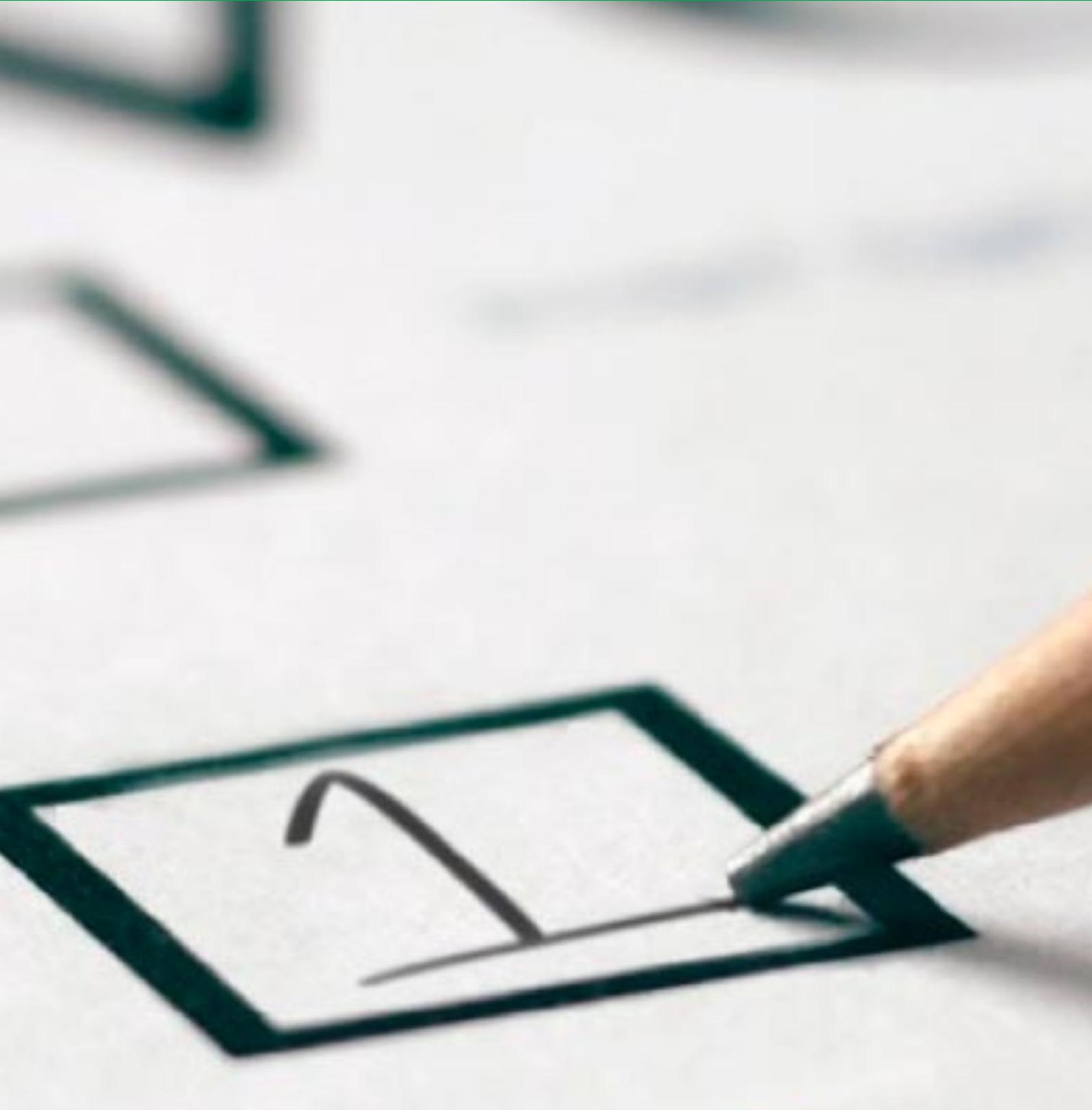


STRENGTHENING DEMOCRACY



GREEN NEW DEAL



STRENGTHENING DEMOCRACY

In a healthy democracy, citizens have a voice and a vote as active participants in society. In democratic societies, all individuals and groups, regardless of race, religion, gender, identity, wealth or sexual orientation have a role in shaping law and policy.

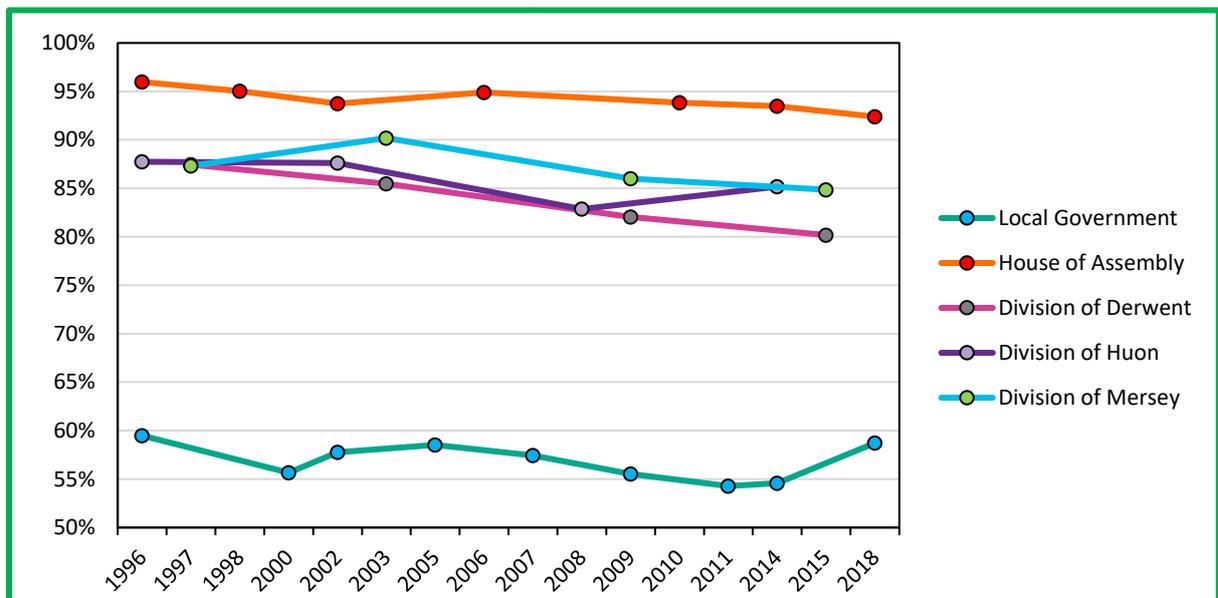
In lutruwita/Tasmania as in many democratic societies, constant vigilance is needed to ensure the foundations of our democracy are strong. This requires a robust, strategic response.

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 5.0.1 shows voter turnout between 1996 and 2018 at elections for: House of Assembly; Local Government (combined); and three random Legislative Council Divisions (Derwent, Huon and Mersey).

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. Voter turnout is not a perfect civic engagement measure, but the OECD considers it the best available.²

Figure 5.0.1: Voter turnout for select elections: 1996-2018³



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

² OECD, [Civic Engagement](#), n.d.

³ Data compiled from Tasmanian Election Commission [Election Reports](#).

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. The author concludes that, despite an "exponential increase" in education and information availability over the last 29 years, "it is likely that the extent of citizens' political interest and knowledge has changed little since Athens."⁶

This finding challenges our understanding of what influences 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.⁷ And while other changes to key influences, such as income inequality⁸ and age,⁹ 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 ANU shows trust in political leaders and government has dropped, and satisfaction with democracy has deteriorated.¹⁰ Lack of trust in politics often has a negative impact on civic participation¹¹ although this is by no means a simple relationship either.^{12,13}

Tasmania's electoral finance laws are the weakest in the country. The State also has ineffectual transparency and accountability laws, which affects people's confidence in the decisions taken by government. There is a comparatively small number of members in the House of Assembly. Fixing the flaws in our political system is not the only answer to improving civic engagement, but it's a strong place to start.

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 G Kramer, [The Apathetic Country: Are Australians Interested In Politics And Does It Matter?](#), Doctoral dissertation, Queensland University of Technology, 2018.

⁷ 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.

⁸ F Solt, [Economic Inequality and Democratic Political Engagement](#), American Journal of Political Science, Vol. 52 (1), 2008.

⁹ L Saarelaht, [Despite strong gains in 2020 Australians remain disengaged with politics](#), The McKinnon Prize, 2020.

¹⁰ S Cameron and I McAllister, [Trends in Australian Political Opinion Results from the Australian Election Study 1987–2019](#), Australia National University, 2020.

¹¹ M Evans, [Trust in politicians and government is at an all-time low. The next government must work to fix that](#), The Conversation, 2019.

¹² 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.

¹³ OECD, [Trust in government, policy effectiveness and the governance agenda](#), Chapter 1, Government at a Glance 2013, 2013, p. 21.

Chapter 5.1: Electoral Finance

Background

In 2018, *ABC Fact Check* found Tasmania's donation laws would become the weakest in the country after the Victorian Government made reforms.¹⁴ In the two years since, Victoria has reformed their laws,¹⁵ and New South Wales,¹⁶ Queensland¹⁷ and the Northern Territory¹⁸ also passed reforms enhancing their political donations and expenditure framework.

Western Australia has progressed legislation to set expenditure limits and ban foreign donations.¹⁹ This means Tasmania has dropped even further behind the rest of the country than when it was declared to have the weakest donation laws.

Figure 5.1.1: Comparison of electoral finance laws by jurisdiction²⁰

	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	\$13,500
Third party donation limit	6	3	-	-	-	-	-	-	-
Disclosure time	21 Days	Annual	7 Days	Annual	After Election	Annual	Annual	Annual	Annual
Third party regulation	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
Donors									
Foreign	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 ²¹	\$4.66 ²²	\$3.30 ²³	\$1.97 ²⁴	\$3.00 ²⁵	-	\$8.62 ²⁶	\$2.83 ²⁷	-

¹⁴ ABC News, [Fact check: Does Tasmania have the weakest political donation laws in the nation?](#), Feb 2018.

¹⁵ ABC News, [Victoria's got strict new laws on political donations but what does it mean?](#), Jul 2018.

¹⁶ Parliament of Australia, [Election funding and disclosure in Australian states and territories: a quick guide](#), Nov 2018.

¹⁷ ABC News, [Political donations and election spending capped in Queensland as 'historic' laws pass Parliament](#), Jun 2020.

¹⁸ ABC News, [The NT political donations system has changed. But do the changes go far enough?](#), Aug 2020.

¹⁹ Parliament of Western Australia, [Electoral Amendment Bill 2020](#), Bill Progress.

²⁰ Data Source: Information compiled from a range of pages from each jurisdiction's respective Electoral Commission.

²¹ Victorian Electoral Commission, [Yearly indexation of funding and donation thresholds 2018-2022](#), 2020.

²² NSW Electoral Commission, [Election Campaigns Fund](#), 2020.

²³ Electoral Commission Queensland, [Fact sheet 20 - State elections: Election Funding Claims](#), 2020.

²⁴ Western Australian Electoral Commission, [Reimbursement of Electoral Expenditure](#), 2020.

²⁵ Electoral Commission South Australia, [Applying for public funding](#), n.d.

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

²⁷ Australian Electoral Commission, [Election funding rates](#), 2020.

Figure 5.1.1 shows Tasmania is the only state with no donation and expenditure laws (in addition to federal requirements), without a disclosure threshold that's lower than the federal threshold, and without third party regulation.

Tasmania is one of only two states without expenditure limits during elections, and without public funding for election campaigns.

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 that donations buy political outcomes is difficult, the anecdotal evidence of this link is compelling.²⁸

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."*²⁹

Although the influence of smaller donations shouldn't be discounted, as they can contribute to long-term relationship building³⁰ 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 for a commitment to meet with particular ministers or political leaders.³¹ Yabsley called for a 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.³²

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 (Policy 5.1.4). A \$3,000 cap would mean that risking the loss of revenue from a single donor would be more palatable for political parties.

²⁸ 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.

²⁹ 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.

³⁰ Ibid, p. 17.

³¹ S Dingle and D Lewis, [Liberal Party statesman calls for political donations reform as report highlights millions gifted anonymously](#), ABC News, Oct 2018.

³² 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.

The average amount Australians donated to charity in 2017-18 was \$764.³³ 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.

Cap political donations	Policy 5.1.1
A cap of \$3,000, on aggregate political donations from the same source, per electoral term, will be introduced.	

Eligibility for Political Donations

Various jurisdictions in Australia have banned donations from foreign actors, property, tobacco and gambling industries.

Figure 5.1.2: Comparison of electoral donation and expenditure laws by jurisdiction³⁴

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

Canadian donation laws go further, allowing only ‘natural persons’ who are citizens or permanent residents to donate to political parties.³⁵

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 2013.³⁶ The Court’s judgement was based on a failure to satisfy the *Lange* test³⁷, 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.”³⁸

The High Court found there was no clear purposes articulated for the prohibition, and on that basis rejected the provision as unconstitutional.³⁹ The provision itself was therefore not found to be intrinsically unconstitutional – rather NSW had not clearly stated the aims and evidence for that provision.

³³ Philanthropy Australia, [Giving in Australia: the fast facts](#), Sep 2020.

³⁴ Data Source: Information compiled from a range of pages from each jurisdiction’s respective Electoral Commission.

³⁵ Library of Congress, [Regulation of Campaign Finance and Free Advertising: Canada](#), 2020.

³⁶ High Court of Australia, [Unions NSW v New South Wales](#), 2013, HCA 58.

³⁷ *Ibid.*

³⁸ *Ibid.*

³⁹ *Ibid.*

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.

Limiting donations to natural persons

Policy 5.1.2

Political donations will only be allowed 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.⁴⁰

There was general agreement among submitters to the 2018 Senate Inquiry that disclosure in real-time was the most desirable approach to donation disclosure.⁴¹

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 (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 donations must be disclosed within 24 hours.⁴² 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,⁴³ which is not optimum for public scrutiny just prior to an election.

Tasmania's election period is between 22 and 30 days before polling day.⁴⁴ 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.

Real-time disclosure of political donations

Policy 5.2.3

Tasmania will enact Queensland's real-time disclosure framework, requiring donation disclosures 7 business days after receipt, and within 24 hours during the 7 days before election polling day.

⁴⁰ 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.

⁴¹ Ibid, p. 75.

⁴² State of Queensland, [Electoral Regulation 2013](#).

⁴³ State of Victoria, [Electoral Act 2002](#), Part 12, Division 3, pp. 252-256.

⁴⁴ State of Tasmania, [Electoral Act 2004](#), s. 70.

Electoral Expenditure Caps

Tasmania and Victoria are the only Australian jurisdictions without expenditure caps for lower house elections (figure 5.1.3). Federal elections also do not have expenditure caps. Most jurisdictions impose a cap on spending for independent candidates, and a cap on parties (a dollar amount multiplied by the number of electorates the party has endorsed candidates within). 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 5.1.3: Comparison of electoral expenditure caps by jurisdiction⁴⁵

	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.⁴⁶ The bill would have imposed expenditure caps of \$75,000 for candidates and \$750,000 for a party, increasing by \$1,000 and \$10,000 per year respectively.⁴⁷

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 (if there were five candidates in an electorate).

In 2018, the Liberals, Labor and Greens all fielded five candidates in each electorate.⁴⁸ The other parties to run candidates were the Jacqui Lambie Network, T4T (Tasmanians 4 Tasmania), and the Shooters, Fishers and Farmers Party.

Figure 5.1.4 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.

⁴⁵ Data Source: Information compiled from a range of pages from each jurisdiction's respective Electoral Commission.

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

⁴⁷ Parliament of Tasmania, [Electoral Amendment \(Electoral Expenditure and Political Donations\) Bill 2013](#).

⁴⁸ Tasmanian Electoral Commission, [2018 State Election Results](#).

Figure 5.1.4: Minor party 2018 election statistics⁴⁹

	Electorates	Candidates	Expenditure	Electorate Cap	Candidate Cap
T4T	2	4	\$0	\$324,000	\$129,600
Jacquie 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 candidates compared to independents.

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.

It is worth noting no independent candidate has been elected during a House of Assembly election since 1996, the last election before the House of Assembly was reduced from 35 to 25 seats.⁵⁰ Even prior to the 1998 reduction in seats, the election of independents was not common.⁵¹

The *Electoral Amendment (Electoral Expenditure and Political Donations) Bill 2013* was consulted on and did not create any controversy.⁵² Given the acceptance of the proposed expenditure cap, and the historic practical irrelevance of adjusting the cap formula based on the approach of other states, there is no need to alter the proposal.

Caps on electoral expenditure

Policy 5.1.4

Tasmania will enact the electoral expenditure rules intended to be imposed by the *Electoral Amendment (Electoral Expenditure and Political Donations) Bill 2013*, providing a cap of \$81,000 for individual candidates and \$810,000 for political parties in 2020, indexed by \$1,000 and \$10,000 respectively per year.

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

⁴⁹ Australian Electoral Commission, [Political Party Returns](#), AEC Transparency Register.

⁵⁰ Tasmanian Electoral Commission, [Parliamentary Elections Report \(1995 - 1997\)](#), 1997.

⁵¹ Tasmanian Electoral Commission, [Previous Parliamentary Election Reports from 1909 to 2014](#).

⁵² Parliament of Tasmania, [Electoral Amendment \(Electoral Expenditure and Political Donations\) Bill 2013 Fact Sheet](#), 2013.

electoral expenditure.⁵³ The intent of public funding is to level the playing field for candidates and reduce the reliance on, and influence from, private donations.⁵⁴

Every Australian jurisdiction, other than Tasmania and the Northern Territory, has 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.⁵⁵

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 5.1.5), whereas an assessment using the same methodology in early 2019 found an average maximum coverage rate of 52%.⁵⁶

Figure 5.1.5: Public funding of elections by jurisdiction⁵⁷

Jurisdiction	Labor	Greens	Liberals	Total ⁵⁸	Voters ⁵⁹	Funding	Total Cost ⁶⁰	Coverage ⁶¹
Australia	\$50,767,513	\$4,489,151	\$43,537,437	\$98,794,101	16,722,156	\$2.83 ⁶²	\$47,323,701	48%
ACT	\$2,668,439	\$535,944	\$1,790,105	\$4,994,488	304,524	\$8.62 ⁶³	\$2,624,997	53%
NSW	\$18,153,347	\$6,987,548	\$48,364,378	\$73,505,273	5,328,989	\$4.66 ⁶⁴	\$24,833,089	34%
VIC	\$29,109,394	\$6,190,688	\$32,720,536	\$68,020,618	4,266,039	\$6.25 ⁶⁵	\$26,662,744	39%
QLD	\$15,908,937	\$1,596,334	\$16,842,285	\$34,347,556	3,368,831	\$3.30 ⁶⁶	\$11,117,142	32%
WA	\$9,816,907	\$1,943,644	\$12,610,057	\$24,370,608	1,693,059	\$1.97 ⁶⁷	\$3,335,326	14%
SA	\$4,914,699	\$472,998	\$7,957,593	\$13,345,290	1,227,189	\$3.00 ⁶⁸	\$3,681,567	28%
Average						\$4.38		35%

Figure 5.2.6 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 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.

⁵³ Australian Electoral Commission, [Election funding](#), 2020.

⁵⁴ Joint Standing Committee on Electoral Matters, [Inquiry into the funding of political parties and election campaigns](#), Chapter 6, Parliament of Australia, 2011.

⁵⁵ S Vivian, [The NT political donations system has changed. But do the changes go far enough?](#), ABC News, August 2020.

⁵⁶ Tasmanian Greens MPs, [Electoral Act Review Submission](#), 2019.

⁵⁷ Note: assessment done on an 'if an election was held today' basis, assumes donations equal to jurisdiction's previous election.

⁵⁸ Australian Electoral Commission, [AEC Transparency Register](#), 2019.

⁵⁹ Australian Electoral Commission, [Size of the electoral roll and enrolment rate 2020](#), 2020.

⁶⁰ 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.

⁶¹ 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.

⁶² Australian Electoral Commission, [Election funding rates](#), 2020.

⁶³ ACT Electoral Commission, [Election funding](#), 2020.

⁶⁴ NSW Electoral Commission, [Election Campaigns Fund](#), 2020.

⁶⁵ Victorian Electoral Commission, [Yearly indexation of funding and donation thresholds 2018-2022](#), 2020.

⁶⁶ Electoral Commission Queensland, [Fact sheet 20 - State elections: Election Funding Claims](#), 2020.

⁶⁷ Western Australian Electoral Commission, [Reimbursement of Electoral Expenditure](#), 2020.

⁶⁸ Electoral Commission South Australia, [Applying for public funding](#), n.d.

Figure 5.1.6: Public funding of elections in Tasmania by scenario

	Labor	Greens	Liberals	Total ⁶⁹	Voters ⁷⁰	Funding	Cost ⁷¹	Coverage ⁷²
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.⁷³ An assessment of expenditure since then suggests this is still the case.⁷⁴

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.⁷⁵

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

⁶⁹ Australian Electoral Commission, [AEC Transparency Register](#), 2019. Note: donations cap calculated on available information.

⁷⁰ Australian Electoral Commission, [Size of the electoral roll and enrolment rate 2020](#), 2020.

⁷¹ 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.

⁷² 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.

⁷³ Joint Standing Committee on Electoral Matters, [Inquiry into the funding of political parties and election campaigns](#), Chapter 6, Parliament of Australia, 2011.

⁷⁴ Australian Electoral Commission, [AEC Transparency Register](#), 2019.

⁷⁵ Joint Standing Committee on Electoral Matters, [Inquiry into the funding of political parties and election campaigns](#), Chapter 6, Parliament of Australia, 2011.

Considering the available evidence of effectiveness, 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.

Public Funding of Elections

Policy 5.1.5

A public funding scheme for House of Assembly elections will be introduced, providing a reimbursement at the Australian rate (currently \$2.83 per first preference vote).

Each jurisdiction where public funding for elections occurs requires a minimum of 4% of the primary vote for eligibility,^{76,77,78,79,80,81} 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.”⁸²

The only rationale for a threshold canvassed by the committee was for cost-saving purposes.⁸³

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 therefor 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 5.1.7: Candidates receiving less than 4% of vote in 2018 House of Assembly elections⁸⁴

	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 5.3.3 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

⁷⁶ Australian Electoral Commission, [Election funding](#), 2020.

⁷⁷ ACT Electoral Commission, [Election funding](#), 2020.

⁷⁸ Western Australian Electoral Commission, [Reimbursement of Electoral Expenditure](#), 2020.

⁷⁹ Electoral Commission South Australia, [Applying for public funding](#), n.d.

⁸⁰ Victorian Electoral Commission, [Funding](#), 2020.

⁸¹ NSW Electoral Commission, [Election Campaigns Fund](#), 2020.

⁸² Joint Standing Committee on Electoral Matters, [Inquiry into the funding of political parties and election campaigns](#), Chapter 6, Parliament of Australia, 2011.

⁸³ Ibid.

⁸⁴ Tasmanian Electoral Commission, [2018 State Election Results](#), 2018.

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.

Eligibility Threshold for Public Funding of Elections

Policy 5.1.6

The public funding scheme for House of Assembly elections will not require candidates or parties to achieve a certain proportion of first preference votes in order to be eligible for reimbursement.

Third Parties and Enforcement

Many of the reasons for reform of electoral finance laws in relation to political candidates and parties also apply to third parties. Third parties can also be used in an attempt to circumvent electoral laws.⁸⁵ For electoral finance regulation to operate effectively, there needs to be appropriate enforcement mechanisms and financing of enforcement activities.⁸⁶

Third Parties and Enforcement

Policy 5.1.7

Third party regulations, offences, and consequential regulations will be developed to remove loopholes and maximise the effect of electoral finance regulations.

⁸⁵ Senate Committee into the Political Influence of Donations, [Senate Committee into the Political Influence of Donations: Final Report](#), Chapter 4: Third Party Regulation, Parliament of Australia, 2018, p. 45.

⁸⁶ M Anderson, J C Tham, Z Nwokora, A Gauja, S Mills, N Miragliotta, Less Money, [Fewer Donations: The Impact of New South Wales Political Finance Laws on Private Funding of Political Parties](#), Australian Journal of Public Administration, vol. 77 (4), p. 810.

Chapter 5.2: Truth in Political Advertising

Background

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).⁸⁷ In 2020, the ACT passed laws modelled on South Australia's.⁸⁸

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.⁸⁹ Despite some issues with the legislation, the assessment found the laws to be reliable, workable and fair.⁹⁰

Tasmanian Laws

The Tasmanian *Electoral Act 2004* contains:

- offences for advertising that is misleading or deceiving in relation to the recording of a vote;⁹¹
- bans distribution of political advertisements and 'how to vote' cards on election day;⁹² and
- a ban on the publishing of political advertisements that refer to a candidate by name without that candidate's permission.⁹³

These provisions don't prohibit dishonest political communications.

⁸⁷ G Williams, [Truth in Political Advertising Legislation in Australia](#), Law and Bills Digest Group, Parliamentary Library, Parliament of Australia.

⁸⁸ 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.

⁸⁹ 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.

⁹⁰ *Ibid*, p.p. 38-39.

⁹¹ Tasmanian Government, [Electoral Act 2004](#), S. 197.

⁹² *Ibid*, [S. 198](#).

⁹³ *Ibid*, [S. 196](#).

The ban on referring to a candidate by name may, in some contexts, limit the capacity to make misleading statements about candidates – in that it limits making any statement about an individual candidate. However, the law does not ban misleading statements about political parties – and these are the main form of political advertising about opponents during a House of Assembly election.

These provisions have been argued to potentially apply to matters as broad as social media posts by the Tasmanian Electoral Commission.⁹⁴ This is likely to be unconstitutional,⁹⁵ but most people are unlikely to risk the possibility of having to finance a High Court challenge.

Repeal of Ban on Referring to Candidates by Name

Policy 5.2.1

Section 196 of the *Electoral Act 2004*, which prohibits referring to a candidate by name without their written consent, will be repealed. This provision will be replaced by a ban on distributing advertisements purporting to be on behalf of a candidate without the permission of that person.

Problems with Truth in Political Advertising Laws

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.⁹⁶ Such tactics could be used to delay a decision until after election day – particularly during the crucial last days of a campaign.⁹⁷

Truth in Political Advertising Laws

Policy 5.2.2

Tasmania will develop ‘truth in political advertising’ laws. These laws will be modelled on South Australian legislation, but will only require the Commissioner to be satisfied that the advertisement is inaccurate and misleading to a material extent. Appeal rights will be available if a statement correction is directed to be issued, guidelines will be developed and published by the Commissioner, and legislated timeframes will be established for determinations.

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 shared by the Victorian Electoral Commission when submitting to an inquiry around similar laws.⁹⁸

⁹⁴ Letter from the Tasmanian Electoral Commission to the Greens.

⁹⁵ Legal advice obtained by the Greens and accepted by the Office of the Director of Public Prosecutions.

⁹⁶ Victorian Electoral Commission, [Inquiry into the impact of social media on elections and electoral administration: Submission from the Victorian Electoral Commission](#), 2020, p. 14.

⁹⁷ 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.

⁹⁸ 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.

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.⁹⁹

Political Advertising Commissioner

Policy 5.2.3

A statutory Political Advertising Commissioner will be established. An assessment of the appropriate officer to be the Commissioner will be undertaken – with a specific assessment of the Tasmanian Electoral Commission and the Office of the Ombudsman. The matter of the resourcing required will also be canvassed.

⁹⁹ Ibid.

Chapter 5.3: Transparency and Accountability

Background

Major party governments in Tasmania have long had a challenges with transparency and accountability, and close ties with vested interest groups.

The Global Right to Information Rating project run by the Centre for Law and Democracy rates Australia as being 67th down the list of 128 countries. As a country, we only score of 84 out of a total possible 150.¹⁰⁰

In 2020, the Tasmanian Ombudsman found our government has the worst record in the country for refusing to release information to the public. Tasmania was twice as bad as the next highest Australian jurisdiction, and 750% the rate of refusal of the most transparent Australian jurisdiction.¹⁰¹

Tasmania is the only jurisdiction in Australia without an offence of misconduct in public office,¹⁰² and the state's Integrity Commission has a poor track record of using the full extent of its powers.¹⁰³

Information Disclosure

The Global Right to Information Rating project rates Afghanistan and Mexico as the top scoring right to information frameworks.¹⁰⁴ Both frameworks are quite different to the Tasmanian *Right to Information Act 2009* and other Australian laws.

The Afghan and Mexican laws govern information transparency more broadly. Mexico, for example, sets requirements for hundreds of types of documents to be automatically disclosed.¹⁰⁵ Figure 5.3.1 outlines some of the differences between these laws and the Tasmanian Act.

¹⁰⁰ Global Right to Information Rating, [By Country](#), Centre for Law and Democracy, 2020.

¹⁰¹ Ombudsman Tasmania, [Annual Report 2019-20](#), 2020, p. 29

¹⁰² Parliament of Australia, [Select Committee On a National Integrity Commission Report](#), Chapter 3, 2017.

¹⁰³ A Humphries, [Why doesn't Tasmania have a 'true' corruption commission?](#), ABC News, Mar 2019.

¹⁰⁴ Global Right to Information Rating, [By Country](#), Centre for Law and Democracy, 2020.

¹⁰⁵ The United Mexican States, [General Act of Transparency and Access to Public Information](#), 2015.

Figure 5.3.1: Comparison of right to information laws

	Afghanistan ¹⁰⁶	Mexico ¹⁰⁷	Tasmania ¹⁰⁸
A Parliamentary Committee	Yes	Yes	No
Automatic disclosure of certain information	Yes	Yes	No
Officers subject to duties	Yes	Yes	No
Expedited timeframes for certain matters	Yes	No	No
Application fee	No	No	\$41.50
Institutional exemptions	No	No	Yes
Includes NGOs funded by Government	Yes	Yes	No
Government documents to be machine-readable	Yes	Yes	No
Accessibility of information provisions	Yes	Yes	No

Many of the issues with the operation of the Tasmanian Act are cultural, including matters relating to political pressure and influence. These matters are difficult to prevent in the context of an information disclosure framework.

However, laws that provide for automatic disclosure of information help set a culture of transparency and ensure the monitoring that’s needed to maintain it. This would improve the integrity of information assessments and reduce the need for having them in the first place.

New Information Accessibility and Transparency Laws

Policy 5.3.1

The *Right to Information Act 2009* will be repealed and replaced with an *Information Accessibility and Transparency Act*. This will govern general information accessibility and transparency standards as well as provide for an information disclosure framework.

Another reason for the cultural issues surrounding the right to information process in Tasmania is the Ombudsman is not empowered to issue formal findings against agencies when they underperform. The Office of the Ombudsman can overturn decisions and publish general findings in the Annual Report, but it can’t formally sanction agencies if they underperform or systemically misapply the Act.

Transparency and Information Commissioner

Policy 5.3.2

The *Information Accessibility and Transparency Act* will establish a Transparency and Information Commissioner, with the Ombudsman appointed as Commissioner. The Commission will measure and report on compliance with the Act, make general recommendations about the state of transparency and accessibility of information, and be empowered to issue formal performance improvement notices to agencies.

¹⁰⁶ [Islamic Republic of Afghanistan Access to Information Law](#), unofficial translation, Centre for Law and Democracy, 2019.

¹⁰⁷ The United Mexican States, [General Act of Transparency and Access to Public Information](#), 2015.

¹⁰⁸ Tasmanian Government, [Right to Information Act 2009](#), 2019.

Non-Government Services

A significant distinction between the Afghan and Mexican laws, and the Tasmanian Act, is that NGOs are captured.

The Afghan Decree includes organisations that are “*substantially funded by one of the institutions defined above as well as any other body which undertakes a public function.*”¹⁰⁹ The Mexican law is broader and captures “*any individual, legal entity or union who receives and uses public resources or performs acts of authority of the Federation, the States and the municipalities.*”¹¹⁰

By contrast, the Tasmanian Act only captures information relevant to NGOs if the information is held by a public authority.¹¹¹ This information can be exempted on the grounds that it relates to trade secrets, would likely put the third party at a competitive disadvantage,¹¹² or that it was information communicated in confidence which would likely impair the ability to obtain such information in the future.¹¹³

A strict interpretation of the Act does not allow for the presumption that the information is exempt, however, this is how it works in practice. While review mechanisms to challenge information being with-held are available, these can take years to finalise. For example, one review application relating to merely two pages of documents took five years to complete.¹¹⁴

Some of the most high-profile Tasmanian political controversies in recent history have related to the activities of the NGOs Safe Pathways¹¹⁵ and the Brahminy Foundation.¹¹⁶ Both NGOs, which were contracted to deliver government services in the out-of-home child care system.

NGO Transparency

Policy 5.3.3

The *Information Accessibility and Transparency Act* will require NGOs that have contracts for government service delivery to provide a minimum amount of information reporting, and be subject to the information disclosure framework.

Misuse of Commercial in Confidence

The classification of “commercial in confidence” in Tasmania law and government administration is vague and inconsistent. Departments regularly publish information in annual reports that includes the name of contract suppliers, the period of contracts, and their

¹⁰⁹ [Islamic Republic of Afghanistan Access to Information Law](#), Article 3, unofficial translation, Centre for Law and Democracy, 2019.

¹¹⁰ The United Mexican States, [General Act of Transparency and Access to Public Information](#), Article 3, 2015.

¹¹¹ Tasmanian Government, [Right to Information Act 2009](#), S. 8, 2019.

¹¹² *Ibid.*, S. 37.

¹¹³ *Ibid.*, S. 39.

¹¹⁴ Ombudsman Tasmania, [Nick McKim and Department of Primary Industries, Parks, Water, and the Environment](#), Ombudsman Tasmania decision.

¹¹⁵ R Whitson and E Coulter, [Safe Pathways: audit shows children not removed for months after first complaint](#), ABC News, 2018.

¹¹⁶ A Fromberg, [Calls for Tasmanian children in controversial NT program run by Allan Brahminy to be brought home](#), ABC News, 2020.

value.¹¹⁷ In some cases, a description of the consultancy is also provided.¹¹⁸ Given tenders are publicly issued, all of this information could easily allow a competitor to discern how much a successful bidder has been paid for a contract, and what they have been paid to do.

Controversial arrangements, such as lease and licence conditions and costs for developments in National Parks, are routinely withheld on the grounds of 'commercial in confidence'. Departments have routinely been found to be misapplying 'commercial in confidence' provisions of the *Right to Information Act 2009*.^{119,120,121,122} These public revelations of government departments withholding information has not stopped them from continuing to make the same determinations.

Commercial Information

Policy 5.3.4

The *Information Accessibility and Transparency Act* will require the disclosure of details of contracts, leases and licences, including location, value, entities and minimum details of terms and conditions. The act will also provide detailed definitions relating to commercial in confidence provisions.

Misconduct in Public Office

Tasmania is the only jurisdiction in Australia without an offence of misconduct in public office. This was publicly emphasised when an outgoing Integrity Commissioner strongly recommended such an offence be established.¹²³ The State Government's position has been that suitable offences already exist.¹²⁴ Despite this position, there have been a range of serious findings of nepotism and misconduct that have not resulted in prosecution.¹²⁵

Misconduct in Public Office

Policy 5.3.5

An offence of Misconduct in Public Office will be established.

¹¹⁷ Department of State Growth, [Annual Report: 2019-20](#), 2020, p. 21.

¹¹⁸ Department of Communities Tasmania, [Annual Report: 2019-20](#), 2020, p. 45.

¹¹⁹ Ombudsman Tasmania, [Nick McKim and Department of Primary Industries, Parks, Water, and the Environment](#), Ombudsman Tasmania decision, 2019.

¹²⁰ Ombudsman Tasmania, [Environment Tasmania and Department of Primary Industries, Parks, Water, and the Environment](#), Ombudsman Tasmania decision, 2019.

¹²¹ Ombudsman Tasmania, [Mandy Squires and Department of Primary Industries, Parks, Water, and the Environment](#), Ombudsman Tasmania decision, 2019.

¹²² Ombudsman Tasmania, [Richard Baines and Department of Health and Human Services](#), Ombudsman Tasmania decision, 2017.

¹²³ Parliament of Australia, [Select Committee On a National Integrity Commission Report](#), Chapter 3, 2017.

¹²⁴ Parliament of Tasmania, Transcript of Debate, House of Assembly Hansard, Wednesday 23 September 2015.

¹²⁵ A Humphries, [Why doesn't Tasmania have a 'true' corruption commission?](#), ABC News, Mar 2019.

Chapter 5.4: House of Assembly

Background

In 1998, the *Parliamentary Reform Bill 1998* was passed. This reduced the number of seats in the House and Assembly from 35 to 25, and in the Legislative Council from 19 to 15. The Bill also reduced the number of ministerial positions from 10 to 8, although this number was increased to 9 in 2002.¹²⁶

In the lead up to the 1998 decision there were four failed attempts to reduce the number of seats in Parliament, and two reports into the matter. Both reports – the Ogilvie Report and the Morling Report – strongly recommended against reducing the number of seats.¹²⁷

In February 2020, members of the Select Committee on the House of Assembly Restoration Bill unanimously recommended the Greens' *House of Assembly Restoration Bill 2018* be passed by the Parliament of Tasmania.¹²⁸ The committee had members from the Liberal, Labor and the Greens.

Rationale for Reducing Seats in Parliament

Despite attempts to present the reduction of seats in Parliament as a budgetary savings measure. However, it is commonly accepted that the impetus for the *Parliamentary Reform Bill 1998* was to raise the electoral threshold to a level where the Greens would struggle to secure seats, and to therefore reduce the likelihood of a third party forming a balance of power or minority government.^{129,130}

Despite an initial decline in Greens members from four down to one, this attempt has largely failed. Prior to 1998, the Greens held an average of 11.4% of the seats in the House of Assembly over four terms, the average after the 1998 changes is 12.6% over six terms, and has included a minority government.¹³¹ Ultimately, the 1998 reforms failed in their intent to sideline the Greens. However, there have been other serious democratic consequences.

Implications of Reduced Seats in the House of Assembly

The final report of the Select Committee on the House of Assembly Restoration Bill found the reduction of seats in the House of Assembly has resulted in inadequate representation of

¹²⁶ Tasmanian Parliamentary Library, [Parliamentary Reform – Downsizing Parliament](#), 2005, Parliament of Tasmania.

¹²⁷ Ibid.

¹²⁸ House of Assembly Select Committee on House of Assembly Restoration Bill, [Final Report](#), Parliament of Tasmania. 2020.

¹²⁹ Dr R A Herr, [Reducing Parliament and Minority Government in Tasmania: Strange Bedfellows Make Politics – Badly](#), Australasian Parliamentary Review, 2005, Vol. 20(2), pp. 142-143.

¹³⁰ K Crowley, [A failed greening? The electoral routing of the Tasmanian Greens](#), Environmental Politics, Vol.8(4), 1999.

¹³¹ Data Source: Tasmanian Electoral Commission, [Parliamentary Elections Reports](#), 2021.

constituencies, a hindered capacity to debate legislation, undertake inquiries, develop policy, and conduct scrutiny of government, and a reduced pool of ministerial talent.¹³²

On the matter of cost to the budget, the Committee found that a restoration of seats back to pre-1998 levels would lead to an improvement in governance – and as a result, better public services that would significantly outweigh the monetary costs.¹³³

The Committee had representatives from all three political parties, and no member dissented from the findings of the final report.

Comparisons with other jurisdictions

Comparisons are often made between Tasmania and the Australian Capital Territory (ACT), which has a similar population and the same size lower house. However, this is a poor comparison for a number of reasons.

The ACT has a geographic area that is just 3.5% the size of Tasmania (2,358 km² compared to 68,401 km²).¹³⁴ The ACT is far less spatially and socially disparate than Tasmania, which is a reasonable argument for needing less broad representation.

The ACT is also the seat of the Australian Government, containing 37.5% of the federal public service workers.¹³⁵ Access to federal politicians, public servants, and public services is far easier in the nation's capital than in other jurisdictions such as Tasmania.

The ACT is a territory with historic structural differences to Tasmania. The ACT was not self-governing until 1988 when the Australian Parliament passed the *Australian Capital Territory (Self-Government) Act 1988*.¹³⁶

The ACT has no constitutional protections or rights. It only has legislative power granted by the 1988 Act – legislative power that can therefore be overridden by the Australian Government. As a result of the ACT Legislative Assembly's constituting document being Commonwealth regulations, the ACT was not able to alter its own composition until amendments were passed in 2013.¹³⁷ Subsequently, in 2014, the number of seats increased to 25.¹³⁸

The choice of 25 seats was made as a result of the analysis of an expert committee.¹³⁹ Interestingly, the committee's preference was to increase the number of seats to 35 – however they were concerned that more than doubling the number immediately would not be appropriate.¹⁴⁰ The expert committee recommended the ACT increase seats to 25 in 2016,

¹³² House of Assembly Select Committee on House of Assembly Restoration Bill, [Final Report](#), 2020, Parliament of Tasmania, pp. 8-10

¹³³ *Ibid.*

¹³⁴ Geoscience Australia, [Area of Australia - States and Territories](#), 2001.

¹³⁵ The Canberra Times, [Canberra public service claim mostly true](#), June 2019.

¹³⁶ Federal Register of Legislation, [Australian Capital Territory \(Self-Government\) Act 1988](#), Australian Government.

¹³⁷ ACT Parliamentary Counsel, [Australian Capital Territory \(Legislative Assembly\) Bill 2014 - Explanatory Statement](#), 2014, p. 1.

¹³⁸ *Ibid.*

¹³⁹ *Ibid.*

¹⁴⁰ ACT Government, [Review Into The Size of the Act Legislative Assembly: Report by the Expert Reference Group](#), 2013, p. 30.

and the Act include provisions to increase the number again to 35 in 2020 (or failing that, 2024).¹⁴¹ The Act did not include these provisions.¹⁴²

It is also worth noting section 8(3) of the *Australian Capital Territory (Self-Government) Act 1988* requires a two-thirds majority to increase the number of seats¹⁴³, whereas Tasmania's *Constitution Act 1934* only requires a simple majority.¹⁴⁴ This means that achieving a change in the number of seats in the ACT would be very unlikely without support from the Opposition.

There are 30 countries in the world structured as federations like Australia.¹⁴⁵ Within these, there are 574 sub-national jurisdictions, 496 of which have legislature data available (see graph 5.4.1). Those not included are the United Arab Emirates and Papua New Guinea, which have no sub-national legislatures, and Sudan and South Sudan, which do not have data available for their jurisdictions.¹⁴⁶

Figure 5.4.1: Sub-National Legislatures (Populations 420,000 – 620,000)¹⁴⁷

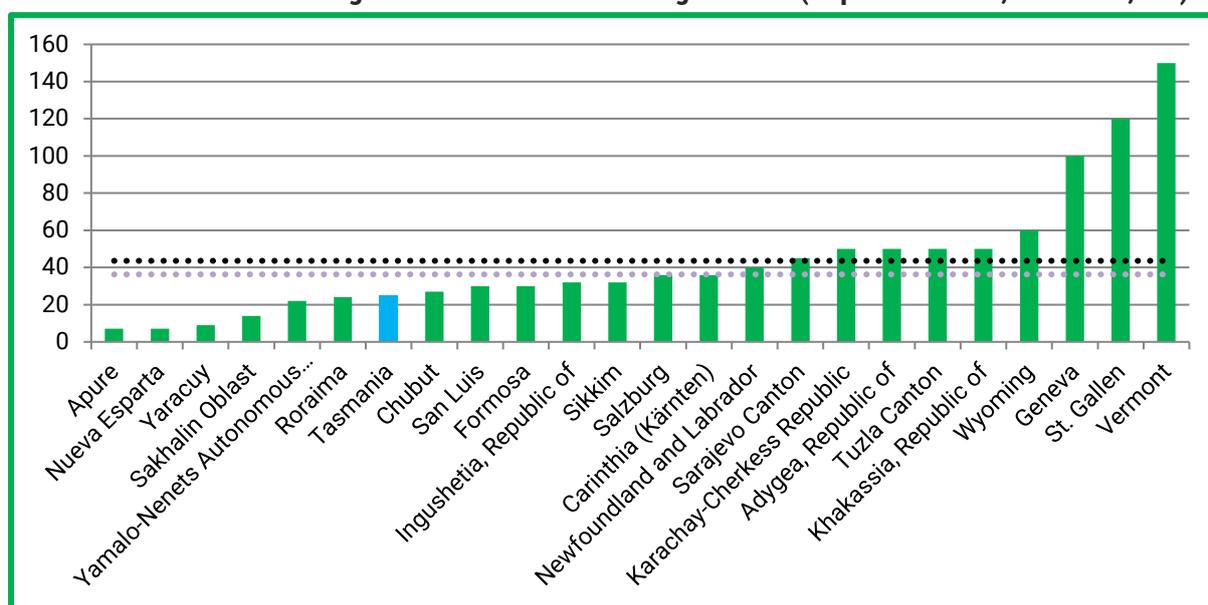


Figure 5.4.2 illustrates Tasmania's Lower House size compared to lower houses from other jurisdictions with similar populations. The dark dotted line represents the average Lower House size among all 24 jurisdictions (43.5), and the paler dotted line is the average excluding the three largest houses (36.3).

Of the 24 jurisdictions that have similar populations sizes to Tasmania (plus or minus 100,000) Tasmania has the sixth lowest number of seats in our lower house.¹⁴⁸

Regarding the jurisdictions that have fewer seats in their lower house than Tasmania, three of these are in Venezuela and two are in Russia. Both of these countries are classified as

¹⁴¹ Ibid.

¹⁴² ACT Parliamentary Counsel, [Australian Capital Territory \(Legislative Assembly\) Bill 2014 - Explanatory Statement](#), 2014, p. 3.

¹⁴³ Federal Register of Legislation, [Australian Capital Territory \(Self-Government\) Act 1988](#), Australian Government.

¹⁴⁴ Tasmanian Legislation, [Constitution Act 1934](#), Tasmanian Government.

¹⁴⁵ Institute for Democracy and Electoral Assistance, [What is Federalism?](#), 2020.

¹⁴⁶ Tasmanian Greens MPs, [Seats in sub-national legislatures](#), 2020.

¹⁴⁷ Data Source: Tasmanian Greens MPs, [Seats in sub-national legislatures](#), 2020.

¹⁴⁸ Data Source: Tasmanian Greens MPs, [Seats in sub-national legislatures](#), 2020.

‘authoritarian regimes’ by the Economist Intelligence Unit (EIU).¹⁴⁹ The other jurisdiction is in Brazil, classified as a ‘flawed democracy’ by the EIU.¹⁵⁰

Of countries the EIU classifies as ‘full democracies’ in, Tasmania is equal fourth smallest out of 72 sub-national legislatures, together with the Northern Territory and Australian Capital Territory, with populations of 246,000 and 410,000 respectively.

The Yukon, Northwest Territories and Nunavut have the only smaller legislatures– all three of these are Canadian jurisdictions with populations under 50,000, less than one tenth the size of Tasmania’s.

Figure 5.4.2: Sub-National Legislatures (Full Democracies < 1 Million Population)¹⁵¹

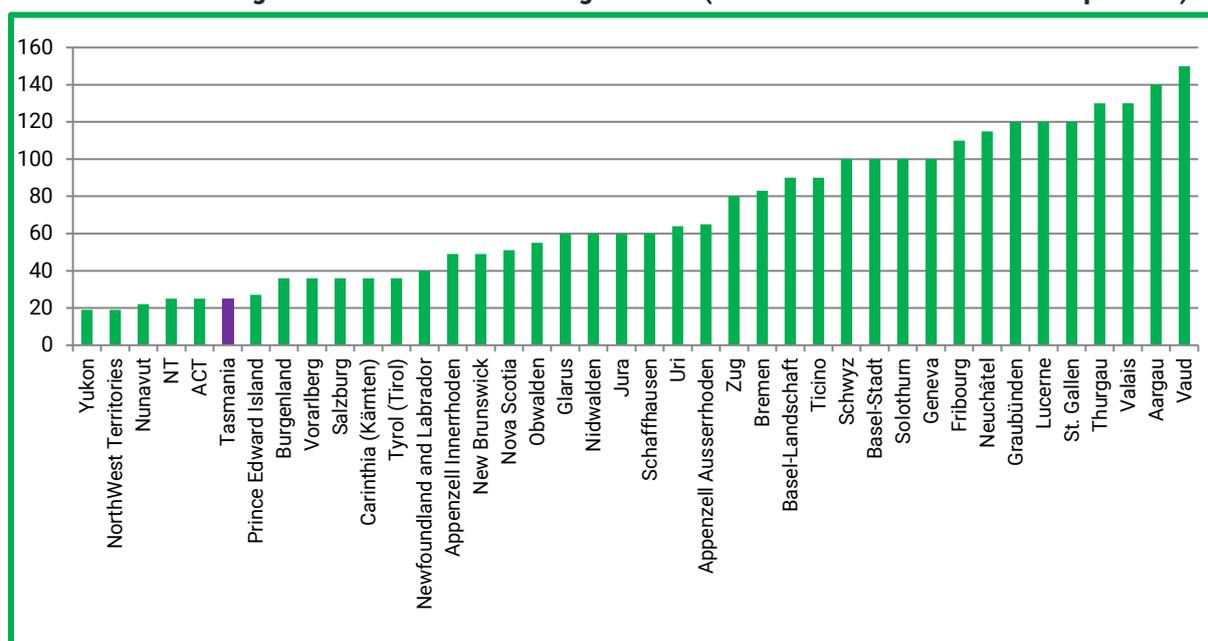


Figure 5.4.3 provides some key comparisons of Tasmania’s population and Lower House size relative to other jurisdictions. Overall, out of 495 jurisdictions, Tasmania has the 101st smallest population and the 85th smallest Lower House.

Figure 5.4.3: Comparisons to Other Jurisdictions by Category¹⁵²

Category	Jurisdictions	Tasmania’s Lower House Rank	Tasmania’s Population Rank
OECD Countries	165	10 th smallest (<i>tied with 11</i>)	37 th smallest
Bicameral Parliament	75	3 rd smallest	7 th smallest
EIU Full Democracies	72	4 th smallest (<i>tied with 2</i>)	32 nd smallest
All Parliaments	495	85 th smallest (<i>tied with 16</i>)	101 st smallest

Of the countries the EIU classifies as full democracies, Tasmania has the 4th smallest lower house, although only the 32nd smallest population. Of the 75 bicameral parliaments, our Lower

¹⁴⁹ Economist Intelligence Unit, [World Democracy Index 2019](#), 2020.

¹⁵⁰ Ibid.

¹⁵¹ Data Source: Tasmanian Greens MPs, [Seats in sub-national legislatures](#), 2020.

¹⁵² Data Source: Tasmanian Greens MPs, [Seats in sub-national legislatures](#), 2020.

House is the 3rd smallest, and our population is the 7th smallest. Finally, of 165 jurisdictions in the OECD we have the 10th smallest Lower House and the 37th smallest population.

International comparisons against a range of metrics highlight how very small the number of seats in Tasmania's Lower House is relative to our population numbers.

House of Assembly – Restoration of Seats and Ministry

Policy 5.4.1

The House of Assembly will be restored to 35 seats, and the maximum number of ministers will be increased from 9 to 10.