



Department of Justice
Office of the Secretary
GPO Box 825
Hobart Tasmania 7001
E-mail: haveyoursay@justice.tas.gov.au

Synod of Victoria and Tasmania, Uniting Church in Australia Submission on Electoral Act Review Interim Report 18 February 2019

The Uniting Church in Australia, Synod of Victoria and Tasmania, welcomes this opportunity to make comment on the issues raised by the *Electoral Act Review Interim Report*

The Synod has expressed concern regarding the regulation of Australia's electoral system, out of concern that vested interests with significant financial resources are able to have undue influence on elections and political parties. The 2016 Synod meeting of church representatives from across Victoria and Tasmania adopted the following resolution:

The Synod resolve:

- (i) *To express concern that comparisons between governments by the OECD show that the Australian political system is a long way behind other OECD countries when it comes to transparency of political donations and restricting their influence in the political system.*
- (ii) *To express concern that political donations can allow policy making to be captured by a handful of powerful interests, meaning that rules may be bent to favour only the few in society. The consequences are likely to be the adoption of policies that are counter to the public interest.*
- (iii) *To call on the Australian Parliament to:*
 - a. *Place caps on how much can be provided in political donations and how much candidates and third parties can spend in elections.*
 - b. *Amend the Commonwealth Electoral Act 1918 to ban political parties, independent candidates and associated entities from receiving 'gifts of foreign property'.*
 - c. *Pass reforms around the transparency of political donations including:*
 - o *That they be disclosed in as close to real time as is possible, rather than once a year;*
 - o *That donations of \$1,000 and above must be publicly disclosed; and*
 - o *That a ban be imposed on anonymous donations above \$50 to political parties, associated entities, independent candidates and Senate groups.*
- (iv) *To call on the Commonwealth Government to ensure that the Australian Electoral Commission be properly resourced to enforce the laws governing political donations.*
- (v) *To write to the Prime Minister, Leader of the Opposition, Leader of the Greens, Leader of the National Party and Leader of the Nick Xenophon Team to inform them of this resolution.*

The Synod believes the following characteristics are important in relation to the political donations system:

- Prevent capture of political parties by those able and willing to make donations to pursue their vested interests;
- Simple and streamlined;
- Transparent and timely;
- Clear and understandable; and
- Level playing field.

It is insufficient to assume that transparency alone is a sufficient safeguard against political and policy capture by those making political donations.

Political donations pose a serious threat to the proper functioning of democracy, as they risk granting some businesses, organisations and individuals greater access to politicians and influence over government policies on the basis of the size of the payment.

The OECD has pointed out that:¹

the increasing concentration of economic resources in the hands of fewer people presents a significant threat to political and economic systems. If the financing of political parties and election campaigns is not adequately regulated, money may also be a means for powerful special interests to exercise undue influence, and “capture” the policy process.

Further, they point out the negative consequence for the wider community:²

Over the past three decades, income inequality has risen in most OECD countries, reaching in some cases historical highs. The increasing concentration of economic resources in the hands of fewer people presents a significant increase in the risks of policy capture. When government policy making is captured by a handful of powerful special interests, the rules may be bent in favour of the rich. The consequences of a widespread feeling that governments are not working in the wider public interest are grave, leading to the erosion of democratic governance, the pulling apart of social cohesion, and the undermining of crucial concepts that underlie democracy such as equal opportunities for all....

The relationship between inequality and undue influence in politics through political financing is often overlooked. Socio-economic inequality is only the tip of an iceberg of inequalities of different dimensions, including differences in influence, power and voice. Consequently, governments are expected to proactively address high-risk areas at the intersection of the public and private sectors, including lobbying, conflict of interest in public decision making, and the influence of vested interests exercised through political financing. In-depth analysis of facts and comparative evidence on political finance and its associated risks to fairness to policy making is needed to understand the risks and opportunities in different institutional settings and to move away from an ideological discussion.

The OECD points out:³

¹ OECD, 'Financing Democracy: Funding of Political Parties and Election Campaigns and the Risk of Policy Capture', OECD Public Governance Reviews, OECD Publishing, Paris, 2016, 15.

² OECD, 'Financing Democracy: Funding of Political Parties and Election Campaigns and the Risk of Policy Capture', OECD Public Governance Reviews, OECD Publishing, Paris, 2016, 24-25.

³ OECD, 'Financing Democracy: Funding of Political Parties and Election Campaigns and the Risk of Policy Capture', OECD Public Governance Reviews, OECD Publishing, Paris, 2016, 24.

Policy capture involves varieties of actors and means, but one of the most effective remedies to avert policy capture in policy making is to adequately regulate the funding of political parties and election campaigns.

The High Court itself has expressed concerns in the joint judgement in *McCloy* where it acknowledged that political contributions can be inappropriately used to secure specific favours from the recipient. The High Court also acknowledged the problem of 'clientelism' which "arises from an office-holder's dependence on the financial support of a wealthy patron to a degree that is apt to compromise the expectation, fundamental to representative democracy, that public power be exercised in the public interest."

It is in line with the Synod's position and the comments above that the Synod responds to the consultation issues.

Consultation Issue 1: Whether consideration should be given to amending the Act to clarify the application of authorisation requirements for candidates in elections to online, social media and digital communication content, having regard to the model applied in other Australian jurisdictions.

The Synod supports that authorisation statements should apply to online, social media and digital communication content, in line with the requirements that exist in other states. As an increasing number of people are accessing information through online sources, social media and other digital communication, rather than traditional broadcast media, it makes sense for the authorisation statement to be platform neutral. The 2018 survey by Yellow found that 88% of Australian internet users had a social media profile.⁴ 62% use social media sites daily with 34% checking more than five times a day.⁵ Using social media for news and current affairs was the third most mentioned reason for accessing social media, with 36% of Australians doing so.⁶ 91% of Australian social media users are on Facebook.⁷

It should be noted that traditional broadcast media is a much more trusted source for news than social media or posts from friends and family about what is happening (73% versus 16% versus 11% respectively).⁸

Consultation Issue 4: Whether consideration should be given to amending the definition of 'electoral matter' in the Act to narrow the definition and/or remove the deeming provision given the broad range of matters that may be captured under the current definition.

The Synod is unclear of the need to modify the existing definition of 'electoral matter' in the Tasmanian *Electoral Act 2004*:

4. Electoral matter

(1) For the purposes of this Act –

electoral matter means matter which is intended to, is likely to or has the capacity to affect voting in an election.

(2) Without limiting [subsection \(1\)](#), matter is to be taken to be intended or likely to affect voting in an election if it –

⁴ 'Yellow Social Media Report 2018. Part One – Consumers', 2018, 4, <https://www.yellow.com.au/wp-content/uploads/2018/06/Yellow-Social-Media-Report-2018-Consumer.pdf>

⁵ 'Yellow Social Media Report 2018. Part One – Consumers', 2018, 4, <https://www.yellow.com.au/wp-content/uploads/2018/06/Yellow-Social-Media-Report-2018-Consumer.pdf>

⁶ 'Yellow Social Media Report 2018. Part One – Consumers', 2018, 4, <https://www.yellow.com.au/wp-content/uploads/2018/06/Yellow-Social-Media-Report-2018-Consumer.pdf>

⁷ 'Yellow Social Media Report 2018. Part One – Consumers', 2018, 4, <https://www.yellow.com.au/wp-content/uploads/2018/06/Yellow-Social-Media-Report-2018-Consumer.pdf>

⁸ 'Yellow Social Media Report 2018. Part One – Consumers', 2018, 5, <https://www.yellow.com.au/wp-content/uploads/2018/06/Yellow-Social-Media-Report-2018-Consumer.pdf>

- (a) contains an express or implicit reference to, or comment on –*
 - (i) the election; or*
 - (ii) the Government, the Opposition, a previous Government or a previous Opposition; or*
 - (iii) the Government or Opposition, or a previous Government or Opposition, of the Commonwealth or a State or Territory; or*
 - (iv) a member or former member of the Parliament of the Commonwealth or a State or of the legislature of a Territory; or*
 - (v) a party, a branch or division of a party or a candidate or intending candidate or group of candidates or intending candidates in the election; or*
 - (vi) an issue submitted to, or otherwise before, the electors in connection with the election; or*
- (b) contains –*
 - (i) a photograph of a candidate or intending candidate in an election; or*
 - (ii) a drawing or printed matter which purports to depict a candidate or intending candidate in an election or which purports to be a likeness or representation of any such candidate or intending candidate.*

In terms of the definition of an 'electoral matter' the Synod would make a distinction between organisations and businesses campaigning for particular policy outcomes and when organisations and businesses campaign for certain parties or candidates to be elected.

For example, the Synod would argue it is legitimate for business groups to campaign publicly for corporate tax cuts (a policy position we do not support ourselves) and try to persuade the community this is a good idea, or for unions to campaign for secure work or funding for education and health services. These are policy outcomes and any political party can adopt these policy positions and voters can decide if they support these causes and then vote accordingly. The Synod would not support this type of public campaign being restricted by being caught under the definition of 'electoral matter'.

On the other hand, it is desirable to regulate and oversee campaign activities that are explicitly aimed at getting particular parties or candidates elected, or against particular parties or candidates getting elected by defining such activities as 'electoral matters'.

The grey zone is where an organisation or business runs public campaigns that publicly argue they are directed at a policy outcome, but in reality are directed at getting a particular party or candidate elected. In such cases, the Synod would lean towards a balance of not restricting such campaigning unless it can be shown to have the ultimate objective of getting a political party elected.

Consultation Issue 7: Whether consideration should be given to changes to Part 4 of the Act in relation to the registration of political parties to provide greater transparency in this process. The following possible changes have been identified by the Review for consideration:

- **Repeal section 52(6)(b) of the Act so the Tasmanian Electoral Commission is not required to provide a copy of the party register on request, but continue to provide that a copy is to be made available for public viewing, consistent with other Australian jurisdictions.**
- **Amend section 44(1) of the Act to require an application for registration of a party to be accompanied by a copy of the party's constitution.**
- **Consider whether any changes to the requirements under section 44(3) of the Act in relation to statutory declarations by members of a registering party may be required.**

The Synod supports:

- Repeal of section 52(6)(b) of the Act so the Tasmanian Electoral Commission is not required to provide a copy of the party register on request, but continue to provide that a copy is to be made available for public viewing, consistent with other Australian jurisdictions. This would strike a better balance between transparency and accountability of political parties and personal privacy.
- Amending section 44(1) of the Act to require an application for registration of a party to be accompanied by a copy of the party's constitution. This will allow the Tasmanian Electoral Commission to more easily establish the legitimacy of the party being registered and will provide greater accountability to the electors.
- Amending section 44(3) of the Act in relation to statutory declarations by members of a registering party may be required so that the statutory declarations must have been made within 12 months of the time of lodging the registration. The statutory declarations are a worthwhile measure to ensure the people in question are genuine members of the new political party and to curb the risk of the misuse of identities to establish a political party. The 12 month time limit is a reasonable requirement to ensure the people in question are likely to be party members at the time of the lodgement for registration.

Consultation Issue 8: Whether consideration should be given to amending the Act to classify express and interstate pre-poll ballots (for example, votes cast in Antarctica) as postal ballot papers to allow them to be treated in the same way under the Act, including to ensure the relatively small number of votes received in this way are less easily identifiable.

For reasons of maintaining the confidentiality of each person's vote, the Tasmanian *Electoral Act* should be amended so that express and interstate pre-poll ballots are classified as postal ballot papers.

Consultation Issue 9: Whether section 100 of the Act should be amended to require a ballot paper to include instructions which are consistent with the requirements set out in section 102 for the marking of ballot papers, to remove the apparent inconsistency in the Act between these two provisions.

The Synod supports amending section 100 to make it consistent with section 102 of the Act, to avoid any confusion for electors.

Consultation Issue 10: Whether further consideration should be given to possible changes that would allow otherwise 'informal' votes to be treated as formal votes.

The Synod supports amending the *Electoral Act* to allow the acceptance of votes as formal votes where the ballot paper contains duplications or omissions between the numbers two and five to be counted. The Synod is unclear how the Tasmanian Electoral Commission would determine if such duplications or omissions were unintentional or intentional, so in either case the vote should count where the elector's voting intention is clear. The Synod supports that all Tasmanians should vote in elections, so that political parties must seek to offer policies that consider all electors. Thus, the more votes counted the better, as it provides a better indication of the will of the electors collectively.

Consultation Issue 13: If state-based disclosure rules are to be introduced in Tasmania that consideration should be given to whether the Act should define 'gift' or donation for the purposes of disclosure, options for the thresholds and timeframes for reporting and any implementation issues, including compliance and enforcement.

The Synod believes that candidates, political parties, and their associated entities should be required to disclose gifts and donations under a broad definition. The definition should seek to capture any benefit to the candidate or political party that could influence their decisions or be perceived to influence their decisions. By making such gifts and donations public the electors can assess if the candidate or political party is being influenced by the gifts or donations and determine if that will impact on the way they cast their vote.

For many political donors the aim is to get governments elected that grant them policy outcomes they seek from government. Political donations buy access and influence. As an example of buying political influence over public policy former Clubs NSW chief executive, Mark Fitzgibbon, told the media Clubs NSW was able to use political donations to buy government access, which it used to influence policy. He stated “We did support political party fundraising, which was a legitimate activity, and it certainly assisted us in gaining access. I have no doubt it had some influence”.⁹

The managing director of Transfield Holdings, Luca Belgiorno-Nettis stated that his company had made political donations because:¹⁰

I think it was fairly plain that [donations] bought access in terms of the ability to simply be able to knock on the door and make the phone call and have the meeting with the political masters to voice whatever concerns that we might have, or indeed just to explore further relationships and further potential opportunities.

He also stated it would be “difficult to deny” that the company’s political donations did not help the company gain an unsolicited contract worth \$750 million to build the harbour tunnel in Sydney.¹¹

This buying of access and influence over government policy is a key reason so many countries restrict political donations.

The available anecdotal evidence strongly suggests that the size of political donations does make a difference to the level of access an organisation will have to a political party or candidate, with the larger the donation the greater the access and influence.

In terms of transparency, the Synod is concerned at the findings of Dr Belinda Edwards about growing opacity of political donations. She found in the 2013 federal election the two major parties declared less than 25% of their privately raised income as donations to the Australian Electoral Commission. Approximately half of those donations came from party fundraising bodies like the Free Enterprise Foundation or Labor Holdings. As a result, only 12-15% of the parties’ incomes can be clearly and easily attributed to specific political donors. In the 2013 election year 63% of Liberal Party private income and 50% of Labor’s private income was not attributed to any source.¹² Over the last decade declared donations have made up a declining proportion of the Liberal Party’s income, dropping from 30% in the 2007-08 election to 28% in the 2010-11 year, to 25% in the 2013-14 election year.¹³ For Labor declared donations have decreased from 30% in 2007-08 to 25% in the 2013-14 election.¹⁴

Transparency is frustrated by the use of intermediary fund-raising organisations which are the ones that then declare the donations to the AEC. For the Liberal Party the key organisations include McCormack Pty Ltd, the Free Enterprise Foundation, Parkeelia, Vapoid, the Platinum forum, the Kooyong Club, the various 200 and 500 Clubs, the Enterprise Club and the Civic group. These groups combined accounted for \$6.01 million of the party’s \$10.3 million in declared donations in 2014-2015.¹⁵ For the Labor Party the key organizations include Labor

⁹ Anthony Klan, ‘Pokie group ‘used political donations to buy influence’’, *The Australian*, 23 November 2009.

¹⁰ Katherine Murphy, ‘Transfield Holdings boss says political donations ‘bought access’ to MPs’, *The Guardian*, 23 May 2016.

¹¹ Katherine Murphy, ‘Transfield Holdings boss says political donations ‘bought access’ to MPs’, *The Guardian*, 23 May 2016.

¹² Belinda Edwards, ‘Dark Money’, 2016, 1, http://cdn.getup.org.au/1969-Dark_Money.pdf

¹³ Belinda Edwards, ‘Dark Money’, 2016, 7, http://cdn.getup.org.au/1969-Dark_Money.pdf

¹⁴ Belinda Edwards, ‘Dark Money’, 2016, 8, http://cdn.getup.org.au/1969-Dark_Money.pdf

¹⁵ Belinda Edwards, ‘Dark Money’, 2016, 3, http://cdn.getup.org.au/1969-Dark_Money.pdf

Holdings, the Progressive Business Associations, the 1973 Foundation, John Curtin House and the Chifley Research Centre. Payments from these organizations made up \$4.2 million of the party's \$7.3 million in declared donations in 2014-15.¹⁶ The fundraising bodies for the Nationals include Doogary Pty Ltd, the Free Enterprise Foundation and John McEwen House.¹⁷ Many of these arm's length organisations do not disclose the payments that are made to them, effectively concealing the origins of the money coming into the parties.

Belinda Edwards also found there is a lack of rigor and consistency in how the distinction between donations and 'other receipts' are applied by political parties. One analysis found 80 cases in the 2014-15 financial year where donors had declared payments as a 'donation' and the parties had recorded the payments as 'other receipts'. There is also evidence of variation in application of the categories within the parties, with identical looking payments being classified differently. For example, in 2014-15 Consolidated Property Group made three payments to the Liberal Party of \$16,500, but in two cases the payment was recorded as a 'donation' and in one instance it was categorized as an 'other receipt'. In the same year ADCO constructions made two payments of \$16,500, one of which was recorded as a 'donation' and the other as an 'other receipt', Meriton Property Services made two payments of \$25,000 that were recorded as 'donations' and one of \$20,000 that was recorded as an 'other receipt'.¹⁸

It has been alleged that to avoid disclose of donors techniques are used such as holding dinners and selling tickets for thousands of dollars and then recording it as a payment for a service rather than a donation. In some cases, the names of those that purchased tickets are not declared at all and only the net profits of the event are recorded.¹⁹

The proportion of Liberal Party income going 'undisclosed' has increased, and reached 69% of total income in 2012-13. The amounts going undisclosed increased steadily from \$21.6 million in 2007-08 to \$33.5 million in 2010-11, reaching \$48.4 million in the 2013-14 election. The Labor Party's undisclosed income has been comparatively steady in absolute terms over the same period slipping from \$25.3 million in 2007-08 to \$18.6 million in 2010-11 before recovering somewhat to \$23 million in 2013-14.²⁰

The Greens declare almost no income as 'other receipts' and they do not have any fundraising organizations acting as third party donors. Almost all of their donations are from individuals, with only a small number of companies and unions making payments. They have the largest proportion of their income going undisclosed of any party. They claim they report all receipts over \$1,000, and that this reflects that majority of their income comes from small donations made by private individuals.²¹

The above examples point to why the Tasmanian donation and gift disclosure laws need to be robust and comprehensive if electors are to be given a genuine and accurate picture of where political donations and gifts to parties and candidates are coming from.

The Synod notes the previous Commonwealth Parliamentary Committee inquiry into the funding of political parties and election campaigns that was conducted in 2011 and reported in November 2011. A number of these recommendations went to the issue of transparency and should be implemented in the Tasmanian reforms as the issues considered are relevant. These include:

- Recommendation 1 to lower the disclosure threshold to \$1,000 and remove CPI indexation;

¹⁶ Belinda Edwards, 'Dark Money', 2016, 3, http://cdn.getup.org.au/1969-Dark_Money.pdf

¹⁷ Belinda Edwards, 'Dark Money', 2016, 10, http://cdn.getup.org.au/1969-Dark_Money.pdf

¹⁸ Belinda Edwards, 'Dark Money', 2016, 4, http://cdn.getup.org.au/1969-Dark_Money.pdf

¹⁹ Belinda Edwards, 'Dark Money', 2016, 4, http://cdn.getup.org.au/1969-Dark_Money.pdf

²⁰ Belinda Edwards, 'Dark Money', 2016, 9, http://cdn.getup.org.au/1969-Dark_Money.pdf

²¹ Belinda Edwards, 'Dark Money', 2016, 11, http://cdn.getup.org.au/1969-Dark_Money.pdf

- Recommendation 3 that donations to ‘related political parties’ be treated as donations to the same political party for the purposes of the disclosure threshold. Once the combined donations to related political parties from a single donor reaches the \$1,000 threshold, disclosure is required; and
- Recommendation 11 that a ban be imposed on anonymous donations above \$50 to political parties, associated entities, third parties, Independent candidates and Senate groups.

There is a need for greater and more timely public transparency around political donations. As the OECD points out, civil society and the media play an important role in ensuring integrity around political donations:²²

No oversight mechanism is complete without the participation of civil society and media. In this regard, civil society organisations (CSOs) can be effective watchdogs and have proved instrumental in advancing transparency and anti-corruption efforts in the field of political finance....

CSOs and media can only be effective watchdogs if substantive political finance information is publicly available for their analysis. In order to mobilise CSO support in advocacy, political finance information must be reliable and accessible, creating an enabling environment in which CSOs, media and private citizens can conduct effective public scrutiny.

It is highly desirable that there be continuous ‘real-time’ disclosure of all donations above \$1,000 accepted by candidates, political parties and associated entities.²³ This is important so voters know as they are deciding between political parties and candidates who those parties and candidates are taking money and gifts from as this may be relevant to their decision making on who to vote for.

There should be a prohibition on donations made by entities that are not natural persons unless the beneficial owners of the entity are fully disclosed.

The Synod notes that 50% (17) of OECD member countries such as France, Korea and Mexico ban all anonymous donations to political parties.²⁴ Also, 10 OECD countries ban all anonymous donations to candidates.²⁵ So clearly it is possible to greatly reduce the threshold for anonymous donations.

Consultation Issue 14: If a state-based disclosure regime is introduced in Tasmania, consideration should be given to the need for public funding of electoral expenditure, consistent with most other Australian jurisdictions.

The Synod supports public funding for elections. This is a key way to reduce inappropriate influence by individuals, organisations and businesses using financial donations and gifts to capture public policy to their vested interests. This is a good use of government revenue if it assists in reducing such influence and improving the quality of our democracy.

By comparison to other OECD countries, Australia has a very high proportion of election funding from private sources increasing the case for expenditure and donation caps combined with public funding of elections. Australia would be at the bottom of the table below based on the figures above for the 2013 Federal election where 86% of the funds spent on the election

²² OECD, ‘Financing Democracy: Funding of Political Parties and Election Campaigns and the Risk of Policy Capture’, OECD Public Governance Reviews, OECD Publishing, Paris, 2016, 28.

²³ This is consistent with the position of Transparency International Australia, ‘Political Finance and Donations’, Position Paper #7, January 2016, 2.

²⁴ OECD, ‘Financing Democracy: Funding of Political Parties and Election Campaigns and the Risk of Policy Capture’, OECD Public Governance Reviews, OECD Publishing, Paris, 2016, p. 16.

²⁵ OECD, ‘Financing Democracy: Funding of Political Parties and Election Campaigns and the Risk of Policy Capture’, OECD Public Governance Reviews, OECD Publishing, Paris, 2016, p. 48.

appear to have come from private sources. In Germany, corporate donations are only 7% of the annual income of all parties in Germany.²⁶

Table of split between public and private funding to political parties in selected OECD countries, 2007 to 2015.²⁷

Jurisdiction	% Funding of political party income	
	Public %	Private %
Greece	90	10
Turkey	90	10
Poland	54-90	10-46
Slovak Republic	87.5	12.5
Spain	87.5	12.5
Belgium	85	15
Italy	82	18
Portugal	80	20
Denmark	75	25
Finland	75	25
Iceland	75	25
Sweden	75	25
Norway	67.4	32.6
Hungary	60	40
Netherlands	35	65
United Kingdom	35	65

Consultation Issue 15: Whether caps on electoral expenditure for candidates for the House of Assembly should be considered at a later stage in light of additional research and data including evidence that may be gathered through any new state-based disclosure regime, if introduced.

The Synod supports caps on electoral expenditure, again to reduce the risks of public policy capture to the interests of political donors. Nearly half of OECD governments have placed spending limits for both political parties and candidates, while 12% restrict only what candidates can spend but not parties and the US and Spain have placed limits on what political parties can spend but not on what candidates can spend.²⁸ It is our understanding that on a per voter basis Australia has very high spending on elections compared to many other OECD countries.

However, as the OECD points out, it will be necessary to place spending limits on associated entities and third parties that seek to influence who electors vote for in elections if spending limits are placed on political parties and candidates, otherwise the limits on political parties and candidates will be evaded by re-channelling election spending through supposedly independent committees and interest groups. Third parties can include not-for profit organisations and businesses that campaign to get candidates or parties elected but do not stand as political parties or candidates.²⁹ These caps should not apply to expenditure that relates to campaigning on policy issues, which do not seek to get a particular political party or candidate elected. In the UK the Electoral Commission requires individuals or organisations that spend or plan to spend more than £20,000 in England or £10,000 (each) in Scotland, Wales or Northern Ireland on regulated campaign activities during a regulated period to register as non-party campaigners. If

²⁶ OECD, 'Financing Democracy: Funding of Political Parties and Election Campaigns and the Risk of Policy Capture', OECD Public Governance Reviews, OECD Publishing, Paris, 2016, p. 46.

²⁷ OECD, 'Financing Democracy: Funding of Political Parties and Election Campaigns and the Risk of Policy Capture', OECD Public Governance Reviews, OECD Publishing, Paris, 2016, p. 38.

²⁸ OECD, 'Financing Democracy: Funding of Political Parties and Election Campaigns and the Risk of Policy Capture', OECD Public Governance Reviews, OECD Publishing, Paris, 2016, p. 54.

²⁹ OECD, 'Financing Democracy: Funding of Political Parties and Election Campaigns and the Risk of Policy Capture', OECD Public Governance Reviews, OECD Publishing, Paris, 2016, p. 54.

they register with the Electoral Commission, they will have a higher spending limit. The spending limits depend on which election they are campaigning in and once they are registered, there are rules they must follow on donations, spending and reporting.³⁰

The OECD notes with regards to expenditure caps:³¹

Such a ceiling plays an important role in understanding the room to manoeuvre for potential policy capture, but is very difficult to strike the right balance. If the limit is very high, it will have little impact. If the limit is very low, donors, political parties and candidates will find ways to circumvent the limit, most likely through splitting and channelling donations through multiple donors.

Thus the Synod does not make a recommendation on what limit should apply in Tasmania, but believes the Tasmanian Parliament should identify the appropriate limit for the Tasmanian context.

Consultation Issue 16: If a state-based disclosure regime is introduced for political donations received by political parties and candidates in Tasmania, whether corresponding regulation of disclosure of donations for third parties should also be introduced.

The Synod supports that the disclosure regime for political donations to political parties and candidates should also apply fully to associated entities, to prevent associated entities becoming an easy way to circumvent the disclosure regime.

The Synod would also support the disclosure regime being applied to third parties for money used for the purpose of trying to influence who electors vote for. This would include activities targeted at trying to persuade electors to also not vote for a party or candidate. However, the disclosure regime should not apply to expenditure by third parties that is to promote a particular public policy. For example, if GetUp! in Tasmania ran a campaign to encourage electors not to vote for particular candidates in Tasmania then all that expenditure and donations for such activities should have to be disclosed. On the other hand, if GetUp! ran a campaign campaigning particular gambling reforms, this should not be caught. The distinction is to allow electors to hear the arguments for and against particular public policies, while avoiding third parties being a means for political parties to avoid the disclosure regime by allying with particular third parties.

Consultation Issue 17: If additional regulation for third parties is introduced in Tasmania, consideration should be given to the following matters:

- **Whether the Act should adopt a broad definition of electoral activity for the purposes of disclosure requirements.**
- **Whether political campaigners should be defined in the Act and required to disclose all political expenditure over a specified amount.**
- **That political campaigners should be required to disclose all political donations received over a designated threshold within a specified period, which should be consistent with the threshold and period set for the disclosure of political donations received by political parties and candidates.**
- **That ‘associated entities’ (entities that are controlled by or operated for the benefit of a registered political party) should be regulated and whether their disclosure obligations should be the same as those for political parties and candidates.**
- **Whether third party campaigners should be required to register with the Tasmanian Electoral Commission prior to making any electoral expenditure.**

³⁰ OECD, ‘Financing Democracy: Funding of Political Parties and Election Campaigns and the Risk of Policy Capture’, OECD Public Governance Reviews, OECD Publishing, Paris, 2016, p. 59.

³¹ OECD, ‘Financing Democracy: Funding of Political Parties and Election Campaigns and the Risk of Policy Capture’, OECD Public Governance Reviews, OECD Publishing, Paris, 2016, p. 47.

- **Whether political donors should be required to disclose all donations over a designated threshold to the regulator within a specified period, which should be consistent, with the threshold and period set for the disclosure of political donations received by political parties and candidates.**

The Synod believes:

- The Act should adopt a definition of electoral activity for the purposes of disclosure requirements that captures activities designed to influence who electors vote for or do not vote for, but not activities that relate to promoting particular positions on issues of public policy.
- Political campaigners should be defined in the Act and be required to disclose all political expenditure over \$1,000.
- Political campaigners should be required to disclose all political donations received over the \$1,000 threshold within 21 days, which should be consistent with the threshold and period set for the disclosure of political donations received by political parties and candidates.
- 'Associated entities' (entities that are controlled by or operated for the benefit of a registered political party) should be regulated and their disclosure obligations should be the same as those for political parties and candidates. This is to avoid political parties and candidates circumventing disclosure requirements through the use of associated entities.
- Political donors should be required to disclose all donations over \$1,000 to the regulator within a seven days, which should be consistent, with the threshold and period set for the disclosure of political donations received by political parties and candidates.

Consultation Issue 18: Whether the need for caps on political donations by third parties should be considered at a later stage in light of additional research and data including evidence that may be gathered through any new state-based disclosure regime and regulation of third parties, if introduced.

The Synod supports caps on donations to political parties, candidates and associated entities. It also supports caps on donations to third parties for the purpose of the third party campaigning to get a party or candidate elected or not elected, but not on donations to campaign for public policy issues. The Synod supports caps on donations from third parties to political parties, candidates and associated entities, to reduce the ability of third parties to capture public policy to the benefit of their vested interest and against the public interest.

Consultation Issue 19: That a prohibition on donations from certain parties not be considered in Tasmania at this stage.

The Synod believes that there is a severe conflict of interest in political parties and candidates accepting donations from gambling, alcohol and tobacco corporations. The profits of these industries are highly dependent on the laws and regulations the Tasmanian Government puts in place, more than most other businesses. The last state election clearly demonstrated the ability of gambling businesses to use donations in an attempt to influence the policies of political parties. The Synod believes that the *Electoral Act* should ban donations from gambling, alcohol and tobacco corporations.

The Synod also supports a ban on foreign donations, where the person or entity in question is not an elector. The logic here is that a foreign body or person should not be able to use donations to influence policy for their benefit at the cost of the interests of Tasmanian electors.

Dr Mark Zirnsak
Senior Social Justice Advocate
Synod of Victoria and Tasmania
Uniting Church in Australia
Phone: (03) 9340 8807
E-mail: [REDACTED]