



**Liberal Party of Australia (Tasmanian Division)**

**Submission to the interim report into the review  
of the  
Tasmanian Electoral Act 2004**

**Sam McQuestin – State Director**

This submission is made on behalf of the Liberal Party of Australia (Tasmanian Division) not on behalf of the Tasmanian Government. Positions expressed in this document may or may not be consistent with the position of the Government.

**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 models applied in other Australian jurisdictions.

The Liberal Party is of the view that the Electoral act would be improved if amended to bring the requirements for authorisation of online, social media and digital communication in line with the requirements for traditional media.

**Consultation Issue 2:**

Whether consideration should be given to amending section 196(1) of the Act which requires written consent to print, publish or distribute any advertisement, 'how to vote' card, handbill, pamphlet, poster or notice which contains the name, photograph or a likeness of a candidate or intending candidate in an election so that it only applies to 'how to vote' cards.

It is the belief of the Liberal Party that this restriction is a limitation on free speech and we therefore support the limitation only applying to How to Vote Cards.

**Consultation Issue 3:**

Whether consideration should be given to repealing section 198(1)(b)(i) to remove the ban on newspaper advertising on polling day, consistent with other Australian jurisdictions.

The Liberal Party notes that this consultation issue has been dealt with in legislation which passed the Tasmanian Parliament recently.

**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 by the current definition.

The Liberal Party is inclined to the view that the act could be improved by amending the definition of electoral matter. There are a number of instances that have occurred in recent years where national elections overlap with Legislative council elections as well as general state elections. In these situations, material clearly not intended to influence a Tasmanian election has the potential be considered to be electoral matter.

A near annual complication also arises on the Saturday of Agfest. Under the current definition of electoral matter, the business of Members of Parliament engaging with their constituents is made more difficult as it is arguable, they are unable to distribute any information about themselves even though they are not up for election.

#### **Consultation Issue 5:**

Whether consideration should be given to amending the Act to allow a returning officer, as directed by the Tasmanian Electoral Commission, to return a writ certifying the election of a part of the number of members required to be elected for a division to address the issues that could potentially arise in delaying the formation of a Government under the current Act where ballot papers are lost or destroyed.

The Liberal Party is inclined to the view that an amendment that may allow for a government to be formed more quickly after an election could be a positive step.

#### **Consultation Issue 6:**

Whether consideration should be given to the means of publishing certain matters, such as the announcement of candidates, registration of political parties and declarations of elections, by the Tasmanian Electoral Commission.

Given that Newspapers in Tasmania still enjoy significant readership and have a quite low cost to the consumer we are not persuaded at this time of the case for a change in this area.

**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.

At this stage the Liberal Party is not persuaded of the need for change.

- 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.

At this stage the Liberal Party is not persuaded of the need for change.

- 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.

At this stage the Liberal Party is not persuaded of the need for change.

The Liberal Party is willing to consider improvements to the process of determining whether some registered members of some parties are genuine and whether those parties are entitled to maintain registered status.

#### **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.

At this stage the Liberal Party is not persuaded of the need for change.

#### **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.

At this stage the Liberal Party is not persuaded of the need for change.

#### **Consultation Issue 10:**

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

At this stage the Liberal Party is not persuaded of the need for change.

#### **Consultation Issue 11:**

Whether consideration should be given to any changes that may be required to the current offence, enforcement and compliance provisions of the Act as well as the creation of any new offence, enforcement and compliance provisions in relation to disclosure, third party regulation and any other new provisions that may result from this Review. Specific issues to be considered in relation to the current Act include whether further consideration should be given to amending the Act to ensure the offences of electoral bribery (section 187) and electoral treating (section 188) are clearly enforceable, including whether the definition of bribery in the Act should be narrowed and whether it is appropriate to introduce a fault element to the offence.

The Liberal Party supports the views expressed by the Director of Public Prosecutions in this area.

## Consultation Issue 12:

Should changes be made to the composition of the Redistribution Tribunal established under the *Legislative Council Electoral Boundaries Act 1995* to address the overlap of membership between the Redistribution Committee and the Redistribution Tribunal?

At this stage on balance the Liberal Party is inclined to support having at least 50% of the membership of Redistribution Tribunal not being the same membership of the Redistribution Committee.

## OVERVIEW OF CONSULTATION ISSUES 13 TO 20

Make no mistake, if implemented, consultation issues 13 to 20 would represent the most dramatic change to Tasmania's democracy in our history.

Once you proceed down the path of increased regulation in this space there is a snowball effect of the need for ever increased regulation.

If you regulate the private funding of political parties, you require public funding. If you regulate the private funding of political parties you must regulate the private funding of third parties. If you regulate the spending of political parties you must regulate the spending of third parties.

The ensuing complex web of regulation would dramatically further reduce political participation in our democracy as ordinary citizens seek to avoid getting entangled in a punitive regulatory regime. Participation by ordinary citizens gets replaced with constant arguments between lawyers over the interpretation of the regulatory system and as we are already seeing elsewhere with applications to courts to seek to overturn various aspects of the regulatory system. It damages the independence of Electoral Commissions by dramatically increasing their need to be involved in regulatory oversight and gives them enormous political power in being able to starve political parties of their public funding in certain regulatory disputes.

As a matter of philosophy and policy principle the Liberal Party does not support unnecessary increased regulation.

The Tasmanian Division of the Liberal Party has consistently opposed increased regulation of the system surrounding political funding.

The Liberal Party did NOT take a policy to the last election to make changes to the regulatory system surrounding political finance. There is no mandate for such change.

If you are seeking to make dramatic changes to our democratic system then you should seek a mandate to do so. The public deserve the right to cast judgment on major changes to our

democracy. Any political party seeking to change our system of political finance including significant taxpayer funding of political parties should take this policy to an election, win the election and then seek to implement the policy.

The current healthy state of Tasmania's democracy should not be taken for granted. The relative ease in putting yourself forward of as a candidate, getting people involved to support you in electioneering including financial support is a good thing about our democracy. It is good that people affected by government decisions have the freedom to criticize the government and wage a campaign against it. It is a good thing that some people can volunteer their labor to support political causes while some people (maybe too busy to volunteer their labor) can choose to volunteer their money. The more broadly and well financed our political parties are the healthier they are and the more diluted is the alleged influence of any particular funding source.

Let us not regulate our healthy democracy out of existence.

The current debate about political finance in Tasmania stems from various conspiracy theories surrounding the last State election, [REDACTED]

Where was the outrage when GetUp spent more than half a million dollars in the Federal Seat of Bass in the 2016 Federal Election? Where was the outrage when the Unions spent tens of millions in the 2007 Federal Election over Workchoices?

In February this year the AEC publicly released the Party and Donor returns debunking the conspiracy theories. Upon release of the returns the Liberal Party made the following statement:

“Publication by the Australian Electoral Commission today of the Liberal Party's Disclosure for the 2017-2018 financial year proves just how wildly inaccurate Labor and Green claims around the last state election were, falsely asserting that gaming interests had contributed over \$5m to the Liberal Party.

[REDACTED]

In fact, even including the small number of gaming related contributions that fell below the disclosure threshold, more than 85 percent of contributions received by the Liberal Party had nothing to do with gaming related interests.

The vast majority of contributions received by the Liberal Party were from thousands of small business people and families [REDACTED]

The disclosure of almost all of the contributions from so called gaming interests demonstrates that the current disclosure system is working well [REDACTED]

As a matter of fact, while the receiver of contributions is only obliged to disclose individual amounts above the threshold claims by some that gaming interests can make multiple donations

below the threshold to avoid disclosure are false. The fact is if the cumulative amount of contributions made by a contributor exceeds the threshold then that contributor must disclose under existing laws

Therefore, any claims that millions from gaming related interests could be kept hidden are just garbage and those making such claims should be called out for their lies.”

The key point is that apart from more than 85 per cent of the Liberal Party’s funding having nothing to do with gaming interests almost all of gaming interest funding was disclosed under the current system.

The current system is working well.

Almost all of the funding not disclosed by the Liberal Party under the current rules had nothing to do with gaming interests.

Changing the rules by lowering donation thresholds will almost make zero difference to the transparency of this funding as the funding will simply not occur.

This funding is largely from ordinary citizens, small business and farmers who support the Liberal philosophy. If the donation threshold is lowered they will lower their donation to stay under the threshold. [REDACTED]

[REDACTED] The changes are often cloaked in unsubstantiated claims about increased transparency, integrity and trust.

There is no compelling evidentiary basis for these claims.

Transparency does not increase there is just a corresponding decrease in private finance replaced by public finance. The vast majority of people do not want to become political targets by becoming disclosed political donors in the same way as many people wish to keep private who they vote for.

There is no evidence of integrity issues with the current Tasmanian system, arguably other jurisdictions with increased regulation have had increased integrity issues associated with the increased complexity of the regulatory system.

There is no compelling evidence that other Australian jurisdictions with increased political regulation have increased public trust in politicians and the political system. It is arguable that Tasmanians have greater trust in their political system than other jurisdictions. It is also arguable that less regulation in this space enhances political participation which enhances trust in the system.

Before individually addressing the consultation issues we believe it is important to reiterate the points made in our original submission and we include the relevant section below.

## **RELEVANT SECTION FROM SUBMISSION TO ORIGINAL REVIEW**

Whether state-based disclosure rules should be introduced, and, if so, what they should include

*The review will be guided by two governing principles; protecting freedom of speech, with note to Constitutional implications, and minimal cost to the taxpayer.*

## OVERVIEW

The Liberal Party of Australia Tasmania Division strongly opposes the introduction of State-based disclosure rules in Tasmania. This has been the consistent and longstanding position of the Tasmanian Liberal Party organization.

It is the philosophical view and policy position of the Liberal Party that wherever possible we should seek to reduce red tape and unnecessary regulation - not increase it.

We already have a Federal system of disclosure rules that operates satisfactorily and we should not be trying to fix something that is not broken.

Introducing State-based draconian disclosure rules would be an unnecessary duplication of regulation and be at considerable expense to Tasmanian taxpayers.

On the basis of the two governing principles of this review the notion of State-based disclosure rules should be immediately and wholeheartedly rejected.

Draconian reductions in disclosure thresholds necessarily by their nature directly impinge on the freedom of speech of individuals to participate in the political process without being subject to intimidation and retribution for expressing their political views.

Why should a small business person or individual who donates a mere \$3 per day to the Liberal Party over a year be forced to fill in numerous pages of regulatory documentation and lodge it with the Electoral Commission?

Why should the small business person or individual then have their name and address published on the Electoral Commission website and then have news organizations plaster their details through the media?

[REDACTED]

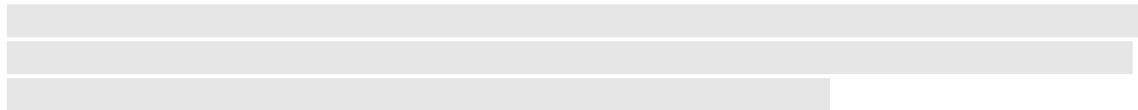
[REDACTED]

Wherever State-based disclosure rules are introduced, taxpayer funding of political parties inevitably follows. In fact the chilling effect of draconian disclosure rules on the private funding of political parties necessitates public funding for the continued viability of political parties. Taxpayer funding of political parties is self-serving, expensive and politically toxic. The public are rightly annoyed at the notion of political parties helping

themselves to taxpayer funding. They are doubly annoyed at the notion of their taxes going to political parties that they vehemently oppose.

Replacing private funding of political parties in Tasmania with public funding would be an extremely expensive exercise. Based on current AEC figures full replacement of current private funding of political parties in Tasmania would be in excess of \$13 million over the forward estimates.

Taxpayer funding of political parties is currently the policy of the Tasmanian Labor Party and the Tasmanian Greens. It is NOT the policy of the Tasmanian Liberal Party.



State-based disclosure rules would not only be a significant impingement on freedom of speech but an unacceptable burden on taxpayers. State-based disclosure rules should be categorically rejected.

## **BROADER GLOBAL CONTEXT OF CAMPAIGN FINANCE REGULATION**

Campaign finance is an extremely complex public policy environment across the globe where any changes will have consequences, some intended and many unintended, so very careful thought is required before changing the existing system.

At present Tasmania, by global standards, has a healthy functioning democracy where the political parties are largely the major players in elections. While third party activities in some Tasmanian elections including the most recent State Election have attracted commentary, the political parties by any measure were still the dominant players in the election.

It is important that all voices should be heard in an election in a democracy.

It is also important for stable government that political parties or political candidates can take their policy platforms to the election and allow the public to make a judgment on the optimal policy prescription for their community.

Draconian disclosure rules that weaken the private funding of political parties necessarily shift power to less transparent third-party actors. It is submitted that healthy political parties are healthy for democracy and imposing draconian disclosure regulation on political parties is therefore not in the public interest.

There are obviously pros and cons to different systems of political finance. The current system may not be perfect but much like democracy it is the least worst system

## **CURRENT FEDERAL DISCLOSURE THRESHOLD**

The current Federal disclosure threshold is more than \$13,800.

As we do not support state-based disclosure regulation we do not support any change to

this current threshold.

That said, it could be argued that \$13,800 is excessively low and already has the capacity to impact on freedom of speech at this level.

A disclosure threshold of somewhere between \$25,000 and \$50,000 would likely be a fairer level.

To put this in perspective \$25,000 is currently in the vicinity of 1 per cent of our annual turnover.

The current disclosure threshold of \$13,800 in round terms about 0.5 per cent of annual turnover.

The desired draconian threshold of the political green-left of \$1,000 would be a ridiculous 0.04 per cent of current annual turnover.

Even at the current threshold there is a substantial bias in favour of the political green-left.

For example currently unions in Tasmania would have hundreds of union organizers and employees who donate time to assist the Labor Party in their campaign efforts. None of this is disclosed.

Where a single union organizer earning say \$60,000 spends a year campaigning for the Labor Party or Labor Candidate, \$60,000 of that individual's time is donated by the relevant union to the Labor Party and is currently not disclosed. Multiply this by say 200 union organizers or employees and you are talking about a political donation to the Labor Party worth some \$12 million which is not disclosed.

Likewise an environmental activist, even if unemployed, if they work on the Greens campaign for a year, they are effectively donating in the vicinity of at least \$40,000 of labor. Multiply this by a few hundred activists and you also have a political donation to the Greens worth some \$12 million which is not disclosed.

Yet in comparison a small business person or farmer, who is time poor and unable to volunteer their labor because they are effectively working 24/7 in their business or on their farm is currently subject to disclosure of their name and address and potential retribution from political enemies in the green-left for donating a mere \$38 per day to the Liberal Party, perhaps equivalent to less than 2 hours per day of their labor.

The point is the current level of the disclosure threshold already has a substantial in built bias to the green-left. Of course the green-left wish to exacerbate this political bias by dramatically reducing the disclosure threshold down to around \$1,000 thereby punishing small business people, farmers and ordinary citizens but not impacting on the union organizers or environmental activists. Labor and the Greens currently have an unlimited disclosure threshold for the donation of time from union and activist volunteers.

## **OTHER JURISDICTIONS ARGUMENT A FURPHY**

The political green-left and their sympathisers in the commentariat seek to frame this

debate as bringing Tasmania into line with other jurisdictions which already have state based disclosure regulation.

This argument is fundamentally flawed as just because other jurisdictions have excessive regulation does not mean that excessive regulation is a good thing or in the public interest.

In fact, disclosure regulation is an inherently political issue.

[REDACTED]

The Labor Party largely gets its funding from Unions who do not care about being disclosed.

[REDACTED]

It is no surprise, that in almost all cases it is the political green-left who have introduced the draconian state-based disclosure in other jurisdictions for their own political benefit.

It is laughable to therefore use the legislation enacted on this issue in other jurisdictions as some form of benchmark of the public interest when it has largely only been introduced for self-serving political advantage [REDACTED].

### **AN EGREGIOUS ATTACK ON FREEDOM OF SPEECH**

Freedom of speech dictates that citizens should be able to express their political views without being subject to intimidation, campaigns against them or potentially violence.

Disclosure regulation directly impacts on freedom of speech by arbitrarily determining the level of financial contribution at which you will be subject to regulatory compliance and subject to the publication of your name and address and therefore media reporting of your details and then retribution from political enemies.

It is in the interests of freedom of speech for this level of financial contribution to be set at a fairly high level in order to prevent victimization of people for expressing their political opinion. While there is a case to increase the current threshold of \$13,800, the Liberal Party accepts this as the current level and does not support regulatory duplication of the Federal disclosure system.

The political green-left and their sympathisers seek to have the most draconian disclosure threshold as possible in order to disadvantage the private funding of the Liberal Party and to allow them to identify and potentially target and punish our financial supporters.

[REDACTED]

Someone who hosts a \$20 per head barbeque with 50 guests attending to support a political candidate would be forced to fill in regulatory forms or face punishment. That person would then have their name put up in lights to be targeted by their political enemies.

[REDACTED]

Surely, as a society we should be trying to encourage grassroots political activity and a barbeque event where a candidate can put forward their views and receive support from ordinary citizens should be supported rather than punishing the organizer of the event.

The Liberal Party is a grass roots membership-based organisation with a membership in recent years greater than Labor and the Green combined.

Our grassroots branch members should not be punished for organising small scale events to support political candidates and their Party.

As it stands, someone who hosts a higher end say \$85 per head cocktail party with 100 guests, a raffle and auction would go close to breaching the current disclosure threshold of \$13,800. Any reduction in the threshold would potentially get ordinary Party members and citizens caught up in regulation and expose them to potential retribution.

[REDACTED]

[REDACTED]

Another favoured tactic [REDACTED] is to attack the financiers of businesses that they are ideologically opposed to. They will lobby and harass the lending institutions until it becomes the easiest course of action for that lender to just refuse to lend to the business in question.

In fact, the whole notion of draconian disclosure regulation needs to be seen in the light of the green-left seeking to attack the financiers of their political opponents. This play is straight out of their handbook.

[REDACTED]

[REDACTED]

The point has also been made that draconian disclosure disproportionately impacts on time poor small businesses, farmers and ordinary citizens, making a financial contribution whereas union organizers and environments activists donating time and labour are treated differently and able to escape disclosure obligations.

As a matter of free speech citizens and organizations should be free to argue against

government decisions - this is the basis of democracy.

Inherent in this should be the ability to help fund campaigns against government decisions that are detrimental to those citizens and organizations. This should include helping to fund third party campaigns or direct funding to political parties that share the concerns of those citizens or organizations.

## **DISCLOSURE CONTRARY TO THE PRINCIPLE OF THE SECRET BALLOT**

In a modern democracy we hold the principle of the secret ballot as sacrosanct. Voters should not be forced to show anyone their ballot paper and how they voted. Equally, citizens who choose to financially contribute to political parties should not be forced to publicly declare their political allegiance through disclosure of their financial support.

There would be outrage at the notion of forcing citizens to make public how they voted. As such, if there is to be a disclosure threshold it needs to be set at a fairly high level so as to not punish ordinary citizens for expressing their political views through a financial contribution to a political party.

While it is arguable that the current threshold of \$13,800 is too low, on the basis that we do not support State-based regulation we accept that this is a reasonable level to protect private political views of citizens.

## **SIGNIFICANT COST TO TAXPAYERS**

Wherever State-based disclosure rules are introduced, taxpayer funding of political parties inevitably follows.

In fact the chilling effect of draconian disclosure rules on the private funding of political parties necessitates public funding for the continued viability of political parties. Taxpayer funding of political parties is self-serving, expensive and politically toxic. The public are rightly annoyed at the notion of political parties helping themselves to taxpayer funding. They are doubly annoyed at the notion of their taxes going to political parties that they vehemently oppose.

Replacing private funding of political parties in Tasmania with public funding would be an extremely expensive exercise. Based on current AEC figures full replacement of current private funding of political parties in Tasmania would be in excess of \$13 million over the forward estimates.

This does not take into account that private funding would actually need to be increased above this level in order to make political parties no worse off due to the increased regulatory compliance burden.

This figure also does not take into account funding of other minor parties or independent candidates who rightly would be entitled to public funding if the major parties and Greens were recipients of public funding.

If you decide that all political candidates are entitled to public funding the costs could

blow out astronomically.

Taxpayer funding of political parties is currently the policy of the Tasmanian Labor Party and the Tasmanian Greens. It is NOT the policy of the Tasmanian Liberal Party.

There is no evidence that the public want taxpayer funding of political parties. The vast majority of Tasmanians would believe that there are better things to spend millions of taxpayer dollars on rather than funding political parties and increasing funding to the electoral commission to oversee unnecessary additional regulation.

### **DRACONIAN DISCLOSURE FAVOURS THE EXTREMELY WEALTHY**

A perverse consequence of draconian disclosure regulation is that it favours the extremely wealthy.

Equally, the extremely wealthy should they decide to be a political candidate can fully fund their own campaigns.

So, draconian disclosure and its chilling effect on smaller contributors makes it harder for ordinary citizens to get financial support to take on wealthy candidates.

It would be very unhealthy for our democracy if the only candidates for political office were multi-millionaires.

### **DRACONIAN DISCLOSURE DISCOURAGES POLITICAL DIVERSITY**

Running for political office is already a time intensive and expensive exercise.

If you take time off work to knock on doors you may be giving up much needed income. Just doing the basics of sending some mail to voters and having signage can soon see the bills rack up.

If you make it harder for candidates to get financial support from a wide cross-section of the community by scaring them away with draconian disclosure regulations, you make it harder for candidates to consider running for political office.

Do we really want more of our political candidates to take out credit cards or increase their mortgages just to run for public office.

Many candidates already spend significant sums out of their own pockets on their campaigns.

In addition to this, successful people in many fields of endeavour already take a significant pay cut to run for Parliament eg medical doctors, CEOs, managers etc etc.

By making it harder to get financial support for their campaigns more people will be dissuaded from running for office.

Also many people would not realise, if you reduce the private funding of political parties through draconian disclosure regulation you will also see political parties increasing the levies already placed on their Parliamentarians.

In some cases, levies placed on Parliamentarians by political parties are already quite substantial.

Increased parliamentary levies imposed by financially struggling political parties would be a further disincentive to any potential political candidate.

### **MAXIMISING PRIVATE FUNDING BEST FOR PUBLIC INTEREST**

[REDACTED]

As a matter of democratic principle, political parties are best funded by those that support the platform of those political parties.

If you drive away private funding through draconian disclosure regulation you make political parties hostage to public funding.

If political parties become almost totally reliant on public funding for survival, they will inevitably become less focused on grassroots connections to their communities and members.

Publicly funded political parties are also at the mercy of the Government of the day who could at any time cancel public funding or withhold it for political advantage. This is bad for democracy.

Public funding also tends to damage the independence of Electoral Commissions whose decisions to withhold public funding can have massive political ramifications.

### **REGULATION AND PUBLIC FUNDING STRENGTHENS THE GREENS**

Increased regulation of political finance and public funding diminishes the strength of the Major Parties relative to the Greens.

It is no surprise that the Greens are the biggest barrackers for more regulation and taxpayer funding of political parties.

At the last State Election, more than 89 per cent of Tasmanians did NOT vote for the Greens.

[REDACTED]



## **NUMBER OF GREEN-LEFT SUBMISSIONS**

Just because Green voters, Green supporters, Green staffers, former Green staffers, Green politicians, former Green politicians, Green activists, and organizations with Green leanings will seek to advance disclosure regulation to benefit the Greens via making a submission does not add any weight to the public interest arguments.

Likewise, for Unions and Labor aligned people and organizations.

Disclosure regulation is inherently political and people making submissions will support regulation that is in the interests of the political parties they support.

The Liberal Party makes no apology for defending its political interests but other submissions also need to be seen in this light.

## **DISCLOSURE TIMING**

As we do not support State based disclosure regulation we do not support any change to the timing of the public release of disclosure returns.

At present following the end of a financial year, Disclosure Returns are lodged with the AEC in October and publicly released on the first working day in February.

In order, to ensure the accuracy of the Disclosure Returns there is already a sufficient administrative and compliance burden on political parties.

Those advocating “Real Time Disclosure” are motivated by trying to make a political point associated with their poor performance at the last State Election.



The truth is we received financial support from citizens and businesses involved in almost all forms of legal business activity. Yes, some from gaming interests who opposed the policies of our political opponents, but the overwhelming majority of our funding had nothing to do with ‘gaming’. Where we received sizable contributions these will all be disclosed under the current rules.

Even Labor’s policy would not have disclosed donations in the final weeks of the campaign in any event.

Real time or regular disclosure sounds simple to do but it is quite a time consuming and complex task. Even our Annual Return generally goes back and forth to our auditors numerous times before completion in order to ensure accuracy.

Sometimes it is not simple to determine who a bank payment has come from immediately and because you are publishing people names and addresses the information must be 100% accurate to avoid disclosing the wrong person by mistake.

If you are doing this more regularly with more penalties attached it will require even greater use of accounting professionals. It has been said in jest that some mainland divisions of political parties now have more accountants than campaigners but there is some truth to it.

To give one example of potential complications, in recent years we received an above threshold contribution from a business completely by their own mistake and account number error at their end. Despite immediately returning the funds we took the view that technically it was a requirement to disclose the contribution. Because of this some media organizations, without checking with the business, wrote stories about this business' contribution when in fact it was the error of essentially a junior account person in that business. The contribution was never intended to be made to us and it was returned.

### **IF IT AIN'T BROKE DON'T FIX IT**

We already have Federal disclosure regulation and there is no public benefit in duplicating this with State based regulation at substantial cost to taxpayers and significant impingement on freedom of speech.

There is no evidence that the current system is broken.

In the context of the recent State Campaign anyone who made substantial donations to political parties will already be disclosed under the current system.

It is claimed in the fact sheet the current laws do not take into account multiple donations from the one source. This is incorrect. The current Federal laws ensure that donors need to lodge a return when their cumulative donations exceed the threshold.

### **3. The level of regulation of third parties, including unions, during Election campaigns**

*The review will be guided by two governing principles; protecting freedom of speech, with note to Constitutional implications, and minimal cost to the taxpayer.*

Consistent with our views on disclosure the Liberal Party does not support any additional state-based regulation at this point in time.

Additional regulations on any participant in the political process will have an adverse impact on that organisations right to free speech. It is possible as a result that any moves to significantly limit third parties' rights to participate in the political process would be open to challenge in the High Court.

Additional regulations will inevitably lead to a greater burden on the tax payer as compliance and enforcement of any regulations would come at significant cost. Notwithstanding the Liberal Party's view that there should be no additional state-based regulation of either political parties or third parties, in the event that political parties were to be subjected to additional regulations or restrictions, the Liberal Party is firmly of the view that **at least** the same level of regulation should apply to third parties. In our view it is a fundamental principle that no participant in the political process should find themselves at a regulatory disadvantage to another participant. It should be noted that political parties are already subjected to a range of regulations that currently do not apply to third parties who participate in the political process in some form.

### **Individual responses to consultation issues 13 to 20**

#### **Consultation Issue 13:**

If state-based disclosure rules are to be introduced in Tasmania, that consideration should be given to the following matters: 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 Liberal Party of Australia Tasmanian Division does **not** support state-based disclosure rules being introduced.

#### **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 Liberal Party of Australia Tasmanian Division does **not** support state-based disclosure rules being introduced.

If a state-based disclosure regime was introduced it will dramatically impact on the private funding of political parties and significant public funding will be required.

The Liberal Party of Australia Tasmanian Division does **not** support public funding of political parties in Tasmania which would cost taxpayers millions of dollars each year.

#### **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 Liberal Party of Australia Tasmania Division does **not** support a new state-based disclosure regime.

The Liberal Party of Australia Tasmanian Division does **not** support caps on electoral expenditure for candidates in the House of Assembly.

Caps on electoral expenditure for candidates in the Tasmanian House of Assembly has been tried in the past and failed. It led to court action between candidates over alleged breaches of the cap. The caps were then abolished.

Caps on expenditure have the potential to wreak economic and social havoc on Tasmania where election results become unknown as they become tied up in court actions post election with elections potentially having to be re-run.

Tasmania needs strong stable majority government not perpetual electoral chaos, uncertainty surrounding election results and having the judiciary politicized through involvement in regular political disputation that becomes the norm to determine who forms government.



We reiterate, the Liberal Party of Australia Tasmanian Division does **not** support caps on electoral expenditure for candidates in the House of Assembly.

#### **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 Liberal Party of Australia Tasmania Division does **not** support a new state-based disclosure regime.

In the circumstance that increased regulation is imposed on political parties through a state-based disclosure regime **at least the same amount** of regulation **must** then be imposed on third parties to ensure that political parties do not become subjugated to third parties.

However we reiterate, the Liberal Party of Australia Tasmania Division does **not** support a new state-based disclosure regime.

#### **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 operate 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.
- 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 Liberal Party of Australia Tasmania Division does **not** support a new state-based disclosure regime.

The Liberal Party of Australia Tasmania Division does **not** support additional regulation being imposed on political parties or third parties.

In the circumstance that increased regulation is imposed on political parties through a state-based disclosure regime **at least the same amount** of regulation **must** then be imposed on third parties to ensure that political parties do not become subjugated to third parties.

**At least the same amount of all elements of regulation** imposed on political parties **must** then be imposed on third parties to ensure that political parties do not become subjugated to third parties.

However we reiterate, the Liberal Party of Australia Tasmania Division does **not** support a new state-based disclosure regime and does **not** support additional regulation being imposed on political parties or third parties.

#### **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 Liberal Party of Australia Tasmania Division does **not** support a new state-based disclosure regime.

The Liberal Party of Australian Tasmanian Division does **not** support caps on political donations.

In the circumstance that increased regulation is imposed on political parties through a state-based disclosure regime **at least the same amount** of regulation **must** then be imposed on third parties to ensure that political parties do not become subjugated to third parties.

Thus, if there were caps imposed on political donations to political parties then caps, **at least as equally restrictive**, must be also be imposed on political donations to third parties to ensure that political parties do not become subjugated to third parties.

However we reiterate, the Liberal Party of Australia Tasmania Division does **not** support a new state-based disclosure regime and does **not** support caps on political donations.

### **Consultation Issue 19:**

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

The Liberal Party of Australia Tasmania Division does **not** support a new state-based disclosure regime.

A state-based prohibition on donations from certain parties should **NOT** be considered at **any** stage.

Such a prohibition would be anti-democratic and anti-free speech. Such prohibitions merely become a growing and never-ending hit list of industries that are ideologically opposed

### **Consultation Issue 20:**

In light of the High Court's decision in *Unions NSW & Ors v NSW*, if a cap on electoral expenditure by third party campaigners was to be introduced in Tasmania, what level of expenditure could be justified with reference to relevant example expenditure by third parties in recent State election campaigns? Should the reasoning in the High Court decision have wider application to caps on third party donations or other further matters?

The Liberal Party of Australia Tasmania Division does **not** support a new state-based disclosure regime.

The Liberal Party of Australia Tasmania Division does **not** support expenditure caps on political parties or third parties.

In the circumstance that increased regulation is imposed on political parties through a state-based disclosure regime **at least the same amount** of regulation **must** then be imposed on third parties to ensure that political parties do not become subjugated to third parties

In the circumstance that expenditure caps are imposed on political parties, then there **must** be an expenditure cap on third parties and this cap must be set at a level substantially lower than political parties to ensure that political parties remain the main actors in an election campaign and are not swamped by third parties.

There would also need to provisions imposed on third parties to prevent collusion to game the caps. For example it would be easy to envisage a scenario where dozens of different work in concert to ensure is able to spend up to the capped amount.

If third parties are already spending large amounts, then the cap on political parties would need to be substantially larger than such amounts and this would have further expensive consequences for taxpayers through increased public funding for political parties to ensure that they are not subjugated to third parties.

We reiterate, the Liberal Party of Australia Tasmania Division does **not** support expenditure caps on political parties or third parties.

## **SUMMARY OF CONSULTATION ISSUES 13 TO 20**

The Liberal Party does **not** support progressing any aspects of consultation issues 13 to 20. To do so would quickly entangle Tasmania in an ever-increasing regulatory nightmare that would forever change the nature of our current healthy democracy. The cost to taxpayers in substantial public funding to political parties and substantially increased funding to the Electoral Commission to oversee the new regulation would cost millions on an annual basis. The public would not support these additional costs.

We don't need an expensive fix to something that is not broken. Tasmania's democracy is healthy.

On any objective measure the substantial new regulation that would be required would necessarily impinge on free speech and it would **not** be a minimal cost to taxpayers.

Consultation issues 13 to 20 should be rejected in their entirety. There is no mandate from the Tasmanian people to pursue these expensive draconian regulatory changes.