



Liberal Party of Australia (Tasmanian Division)

**Submission to the review of the
Tasmanian Electoral Act 2004**

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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.

1. Modernising the current Tasmanian *Electoral Act* with specific examination of sections including 191(1)(b); 196(1) and 198(1)(b);

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

Section 191 (1) (b)

It will be important to make the clause relevant to new platforms including, snap chat, Facebook, twitter etc. It is possible that authorisation can be carried in the about title section of the account.

While the Liberal Party accepts that all material produced to influence voters in an election period must be linked to a responsible person or authoriser it would appear that this section of the Act has not kept pace with technology and the many platforms that are becoming popular in 2018.

In many cases with the increasing prevalence of social media and traditional media being consumed via smart or mobile devices, is it often not practical for the limited space available to be taken up by an authorisation. In the case of a tweet, even with the extended characters now available, the authorisation would take up a large proportion of the space allowed for the message.

The Liberal Party would be supportive of changes to this section of the Act that would reduce the impact on the message itself by the authorisation while still ensuring that a voter is able to easily make themselves aware of where the message comes from and who is responsible for it.

Section 196 (1)

This section of the Tasmanian Electoral Act does not appear to be consistent with the guiding principle of this review to protect free speech and it is worth further review, noting that this provision is not consistent with the Commonwealth Electoral Act.

The Liberal Party is aware that there have been a number of examples in online advertising that have breached this section of the Act where the Commission has been unable to contact the person responsible.

Section 198 (1) (b)

This section of the Tasmanian Electoral Act is entirely inconsistent with the guiding principle of this review and has an adverse impact on free speech in our democratic State.

This section of the Act seeks to stop one part of the media from participating in the coverage of an election on polling day while allowing more modern media to participate in an unrestricted way.

This is a clear example of the Act not keeping pace with technology, social media and community expectations.

It is the Liberal Party's view that this section of the Act is outdated and should be removed.

2. 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?

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.

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

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 .

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.

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.

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.

Another favoured tactic 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.

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 place 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

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 anytime 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.

This does not make it in the public interest, quite the contrary.

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.