



The Secretary  
Joint Standing Committee on Electoral Matters  
Parliament of Tasmania  
Parliament House  
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30 August 2024

Dear Secretary,

### **Inquiry into the Conduct of the 2024 House of Assembly General Election and 2024 Legislative Council elections**

The Australia Institute Tasmania is pleased to make the following submission to this inquiry. Our submission relates to several aspects of the terms of reference, including the administration, operation and conduct of the 23 March 2024 General Election of Members of the House of Assembly and the 2024 Legislative Council elections.

The Australia Institute has a long track record of research and engagement on democratic reform, both in Tasmania and nationally. We have published numerous reports and submissions and hosted public forums on topics including integrity in politics, political donations disclosure, truth in political advertising and other transparency and accountability mechanisms that relate to elections and democracy more broadly.

In the lead up to the 2024 Tasmanian elections, the Institute hosted a public forum and a candidates' roundtable discussion on integrity in politics.<sup>1</sup> During these forums, we shared our research and invited feedback. Participants also put forward their own ideas on fortifying Tasmania's democracy.

Drawing on this consultation, the Institute published the *Democracy Agenda for the 51st Tasmanian Parliament* in time for the first sitting of the new Parliament in May 2024 (Attachment A). The discussion paper provides relevant background on minority governments, describes the evolution of key democratic reforms in Tasmania, outlines principles for a healthy democracy, and the Australia Institute's nine principles for fair political finance reform. Sixteen actions to strengthen Tasmania's democratic architecture and improve the functioning of and representation within Parliament have been proposed. One of the recommendations has already been taken up – the establishment of the Joint Standing Committee on Electoral Matters (JSCEM).

The 2024 House of Assembly election resulted in a hung Parliament: one where neither major party holds a majority of seats in Parliament. An unprecedented 11 crossbenchers were elected to a restored 35 Member lower house. The crossbench is larger than the Labor Party opposition, which holds ten seats.

A minority government is one formed in the context of a hung parliament, when political rivals work together to hold a majority in Parliament. Tasmania's Liberal minority

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<sup>1</sup> Integrity in Politics: Public Forum, March 5, 2024  
[https://nb.australiainstitute.org.au/integrity\\_in\\_politics\\_public\\_forum](https://nb.australiainstitute.org.au/integrity_in_politics_public_forum)

Government now relies on support from crossbenchers. Minority governments require compromise and negotiation. Various models exist, from formal coalition agreements between political parties and/or independent Members of Parliament, to other kinds of ‘confidence and supply’ agreements (like those in place now in Tasmania), or more loose arrangements. See Attachment A for more information about minority governments in Tasmania.

Several of the recommendations in the Democracy Agenda relate specifically to improving the administration, operation and conduct of elections in Tasmania, including the 2024 elections (see Attachment A, pages 9–16). These include:

1. Strengthen political donations disclosure laws without delay, including by:
  - a. Significantly lowering the proposed donation threshold from \$5,000 to \$1,000 and guaranteeing real-time disclosure of political donations.
  - b. Broadening the definition of “gift” to capture all payments that might influence politicians.
  - c. Requiring third-party campaigners to disclose relevant donations regardless of when they were made during the electoral cycle.
  - d. Holding a parliamentary inquiry into a ban on donations from developers and the fossil fuel, tobacco and gambling industries.
  - e. Ensuring public resourcing consistency and equity across both chambers.
2. Be guided by the nine principles of fair political finance reform when considering public funding reform, donation caps and spending caps.
3. Immediately introduce truth in political advertising laws, modelled on existing legislation in other jurisdictions.
4. Adopt Integrity Commission recommendations on reforms to grants administration for funding commitments made during election campaigns (what has been described as ‘pork barrelling’).
5. Immediately establish a Joint Standing Committee on Electoral Matters to enable enhanced scrutiny of the administration of all Tasmanian elections, consideration of potential new electoral reforms and put impetus behind promised electoral reforms that have faltered.
6. Reinstate fixed four year terms for the House of Assembly to give certainty around election dates and remove the advantage of the premier calling an election at the exact point it is most politically advantageous.

Other recommendations to aim to strengthen Tasmania’s democratic architecture more broadly and include (Attachment A, pages 17–21):

7. Legislate to create a new, appropriately funded, independent anti-corruption commission that is fit for purpose and holds public hearings. This includes having authority to investigate:
  - a. third parties that may be trying to corruptly influence public officials
  - b. Members of Parliament during an election
  - c. a broader definition of corrupt conduct.



8. Immediately enshrine Tasmania's new Lobbyists Code of Conduct in legislation, as recommended by the Tasmanian Integrity Commission.
9. Adopt a range of immediate and longer-term actions to improve the functions of the *Right to Information Act* and increase the transparency and accountability of Tasmania's public institutions. This includes implementing the recommendations arising from the Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings, and the recommendations of the Environmental Defenders Office 2023 Report.
10. Trial the proactive disclosure of cabinet documents within 30 business days of decisions.
11. Review the *Public Interest Disclosure Act 2002* (whistle-blower legislation).

Recommendations to improve functioning of Parliament include (Attachment A, pages 22–26):

12. Legislate detailed disclosure of ministerial diaries on a monthly, or more frequent basis.
13. Publish incoming briefs to new ministers following an election or a change in minister.
14. Immediately reinstate a Joint Standing Working Arrangements Committee to examine and recommend measures to improve the performance and efficiency of Parliament.
15. Establish a comprehensive and educative induction process for new parliamentarians.

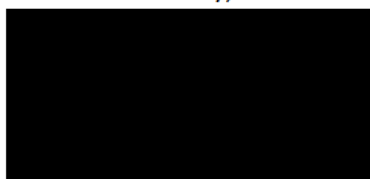
Recommendations to improve representation in Parliament include (Attachment A, page 27):

16. Establish a Joint Parliamentary Inquiry to develop a preferred model to provide for dedicated seats for Tasmanian Aboriginal people in the Parliament.

The proposals detailed in the attached Democracy Agenda provide prioritised measures that would make Tasmanian elections more democratic, elected representatives more accountable, ensure public money is better spent and help Parliament operate more smoothly and justly.

Many Members of the 51<sup>st</sup> Tasmanian Parliament campaigned on commitments to strengthen integrity in politics should they be elected. Thus, the current JSCM Inquiry into the Conduct of the 2024 House of Assembly General Election and 2024 Legislative Council elections provides an excellent opportunity to achieve progress towards this, enhancing public trust and confidence in Parliament, government and its institutions. As previous reform efforts in the state and across Australia show, these reforms can endure and make a lasting impact on the quality and nature of Tasmanian democracy.

Yours sincerely,



Eloise Carr  
Director  
The Australia Institute Tasmania

## Attachment A:

# Democracy Agenda for the 51st Tasmanian Parliament

## Options for reform

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Discussion paper

**Bill Browne**

**Eloise Carr**

**May 2024**

## ABOUT THE AUSTRALIA INSTITUTE

The Australia Institute is an independent public policy think tank based in Canberra. It is funded by donations from philanthropic trusts and individuals and commissioned research. We barrack for ideas, not political parties or candidates. Since its launch in 1994, the Institute has carried out highly influential research on a broad range of economic, social and environmental issues.

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As we begin the 21st century, new dilemmas confront our society and our planet. Unprecedented levels of consumption co-exist with extreme poverty. Through new technology we are more connected than we have ever been, yet civic engagement is declining. Environmental neglect continues despite heightened ecological awareness. A better balance is urgently needed. The Australia Institute's directors, staff and supporters represent a broad range of views and priorities. What unites us is a belief that through a combination of research and creativity we can promote new solutions and ways of thinking.

## OUR PURPOSE - 'RESEARCH THAT MATTERS'

The Institute publishes research that contributes to a more just, sustainable and peaceful society. Our goal is to gather, interpret and communicate evidence in order to both diagnose the problems we face and propose new solutions to tackle them.

The Institute is wholly independent and not affiliated with any other organisation. Donations to its Research Fund are tax deductible.

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## ACKNOWLEDGEMENT OF COUNTRY

The Australia Institute Tasmania acknowledges that Tasmania was taken forcibly and unethically, and that Tasmanian Aboriginal people continue to suffer the consequences of this today. The Institute offers respect to Elders past and present.

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# Summary

This discussion paper describes the evolution of key democratic reforms in Tasmania, principles for a healthy democracy, and details 16 reforms that Tasmanian parliamentarians – Liberal, Labor, Independent and minor party – could pursue in the 51st Tasmanian Parliament.

Similar to the Code of Conduct for Members of the Parliament of Tasmania, the Nolan Principles are a succinct set of seven principles to guide the conduct of public officers. The Nolan Principles have become synonymous with good governance and are provided in this discussion paper as relevant background to the recommended reforms.

The first nine recommendations to strengthen democratic architecture are identified as the highest priorities, with remaining reforms in this section recommended for action during this term of Parliament. Several of these have draft legislation prepared or can be addressed quickly as soon as Parliament returns. The Australia Institute's nine principles for fair political finance reform are included. Actions to improve the functioning of, and representation within Parliament, have been proposed. The reforms include:

## Strengthening Tasmania's democratic architecture

1. Strengthen political donations disclosure laws without delay, including by:
  - a. Significantly lowering the proposed donation threshold from \$5,000 to \$1,000 and guaranteeing real-time disclosure of political donations.
  - b. Broadening the definition of "gift" to capture all payments that might influence politicians.
  - c. Requiring third-party campaigners to disclose relevant donations regardless of when they were made during the electoral cycle.
  - d. Holding a parliamentary inquiry into a ban on donations from developers and the fossil fuel, tobacco and gambling industries.
  - e. Ensuring public resourcing consistency and equity across both chambers.
2. Be guided by the nine principles of fair political finance reform when considering public funding reform, donation caps and spending caps.
3. Immediately introduce truth in political advertising laws, modelled on existing legislation in other jurisdictions.
4. Adopt Integrity Commission recommendations on reforms to grants administration for funding commitments made during election campaigns (what has been described as 'pork barrelling').
5. Immediately establish a Joint Standing Committee on Electoral Matters to enable enhanced scrutiny of the administration of all Tasmanian elections, consideration of



potential new electoral reforms and put impetus behind promised electoral reforms that have faltered.

6. Reinstate fixed four year terms for the House of Assembly to give certainty around election dates and remove the advantage of the premier calling an election at the exact point it is most politically advantageous.
7. Legislate to create a new, appropriately funded, independent anti-corruption commission that is fit for purpose and holds public hearings. This includes having authority to investigate:
  - a. third parties that may be trying to corruptly influence public officials
  - b. Members of Parliament during an election
  - c. a broader definition of corrupt conduct.
8. Immediately enshrine Tasmania's new Lobbyists Code of Conduct in legislation, as recommended by the Tasmanian Integrity Commission.
9. Adopt a range of immediate and longer-term actions to improve the functions of the *Right to Information Act* and increase the transparency and accountability of Tasmania's public institutions. This includes implementing the recommendations arising from the Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings, and the recommendations of the Environmental Defenders Office 2023 Report.
10. Trial the proactive disclosure of cabinet documents within 30 business days of decisions.
11. Review the *Public Interest Disclosure Act 2002* (whistle-blower legislation).

## Functioning of Parliament

12. Legislate detailed disclosure of ministerial diaries on a monthly, or more frequent basis.
13. Publish incoming briefs to new ministers following an election or a change in minister.
14. Immediately reinstate a Joint Standing Working Arrangements Committee to examine and recommend measures to improve the performance and efficiency of Parliament.
15. Establish a comprehensive and educative induction process for new parliamentarians.

## Representation in Parliament

16. Establish a Joint Parliamentary Inquiry to develop a preferred model to provide for dedicated seats for Tasmanian Aboriginal people in the Parliament.



# Introduction

At the 2024 general election, Tasmanians elected a hung Parliament: one where neither major party holds a majority of seats in Parliament. An unprecedented 11 crossbenchers (of 35) were elected, comprising five Greens, three Independents and three Jacqui Lambie Network members. The crossbench is larger than the Labor Party opposition, which holds ten seats.

Tasmania's new Liberal minority Government will rely on support from crossbenchers, including three Jacqui Lambie Network Members of Parliament and Independent Members David O'Byrne and Kristie Johnston.

Three Tasmanian upper house seats had elections in May 2024. The Legislative Council is now comprised of three Labor, four Liberal, one Green and seven Independent Members.

A minority government is one formed in the context of a hung parliament, when political rivals work together to hold a majority in Parliament.<sup>1</sup> Minority governments require compromise and negotiation. Various models exist, from formal coalition agreements between political parties and/or independent Members of Parliament, to other kinds of 'confidence and supply' agreements, or more loose arrangements.

In Australia, minority governments have been mostly stable and usually based on a written accord, charter, or agreement. Minor partners have often required certain reform measures in return for their support on no confidence motions and budget supply bills. Sometimes such agreements have included minor party or Independent Members in Cabinet.<sup>2</sup>

The first Australian written accord was the 1989 Tasmanian Parliamentary Accord between Labor's Michael Field and five Green Independent Members. Tasmanian minority governments have been common since. Sometimes they have emerged from elections, as with the Rundle and Bartlett governments, and sometimes occurring part-way through the parliamentary term, with both the Gutwein and Rockliff governments falling into minority.

Both in Tasmania and federally, minority governments encourage renewed interest in democratic reform, particularly parliamentary reform.

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<sup>1</sup> Crowley (2003) *Strained Parliamentary Relations: Green-supported minority government in Tasmania*, <https://www.aspg.org.au/a-p-r-journals-2/autumn-2003-vol-10-1/>; Griffith (2010) *Minority governments in Australia 1989-2009: accords, charters and agreements*, pp i–ii, 12–13, <https://www.parliament.nsw.gov.au/researchpapers/Pages/minority-governments-in-australia-1989-2009-acco.aspx>

<sup>2</sup> Griffith (2010) *Minority governments in Australia 1989-2009: accords, charters and agreements*, pp ii–iii

This paper describes in brief the evolution of key democratic reforms in Tasmania, identifies principles for a healthy democracy, and then details 16 reforms that Tasmanian parliamentarians – Liberal, Labor, Independent and minor party – could pursue in the 51st Tasmanian Parliament.

# Tasmania's democratic innovations

Tasmania has a strong history of democratic reform and innovation.

Tasmania has used proportional representation in House of Assembly elections since 1896, when Tasmanian Attorney-General Andrew Inglis Clark convinced the Tasmanian Parliament to adopt it on a trial basis.<sup>3</sup> It would not be until 1949 that the Australian Senate adopted proportional representation; even then, the Senate system chosen was one that encourages voters to choose between parties rather than candidates. The Hare–Clark voting system used in Tasmania is only found in one other Australian jurisdiction, the ACT.

The Tasmanian Legislative Council uses single-member electorates, which is unique for an Australian upper house. The staggered terms (which do not usually coincide with lower house elections), limits on campaigning and small electorates mean independents have done well. Between 1856 and 2020 major party parliamentarians were in minority in the Legislative Council.<sup>4</sup> From 2020 to 2024 they held a narrow majority (8 of the 15 seats).<sup>5</sup>

Tasmanians have also led democratic reforms at the federal level. Australia owes compulsory voting, which keeps participation in elections high and ensures disadvantaged groups turn out to vote just as the privileged do, to Herbert Payne, a Nationalist senator for Tasmania. Payne's private member's bill in 1924 introducing compulsory voting at the federal level was the second private member's bill to become law since Federation.<sup>6</sup>

A Liberal state MLA, Neil Robson, proposed a private member's bill that would cause candidate names to be randomised on each ballot paper, while being listed underneath their party or group affiliation. This system encourages candidates *within* a party to compete with one another, instead of a party being able to choose which of its candidates are most likely to be elected. The bill passed in 1979 with the support of Labor parliamentarians, who wanted to limit the influence of factional powerbrokers.<sup>7</sup>

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<sup>3</sup> Green (2006) *Hare–Clark explained (archived)*, <https://web.archive.org/web/20220515233830/https://www.abc.net.au/elections/tas/2006/guide/hareclark.htm>

<sup>4</sup> Baker (2020) *"Eight voices, two opinions": Is Tasmania's Upper House set to lose its independence?*, <https://www.abc.net.au/news/2020-08-03/tasmania-legco-election-major-party-dominate-upper-house/12517326>; Fewkes (2011) *Tasmania's Legislative Council elections — is reform needed?* pp 88–89, <https://www.aspg.org.au/a-p-r-journals-2/autumnwinter-2011-vol-26-2/>

<sup>5</sup> Legislative Council elections will be held on 4 May 2024 for three Divisions: Hobart, Prosser and Elwick. Two positions are currently vacant following the successful move to House of Assembly electorates.

<sup>6</sup> Roe (2004) *PAYNE, Herbert James Mockford*, <https://biography.senate.gov.au/payne-herbert-james-mockford/>

<sup>7</sup> Green (2006) *Hare–Clark explained (archived)*

The Tasmanian Parliament only adopted Hansard, an official record of parliamentary proceedings, in 1979 while under a Lowe Labor government.<sup>8</sup> In 2015, Liberal Speaker Elise Archer launched the digitalisation of Hansard records from 1979 to 1991, which until then were only available in hardcopy.<sup>9</sup>

Minority governments have also seen major democratic reforms introduced. The 1989–1992 Labor–Green Accord secured the Parliamentary Research Service (PRS) and the state’s first *Freedom of Information Act 1991* (later reformed as the current *Right to Information Act 2009*).<sup>10, 11</sup> Important environmental reforms were also achieved, including World Heritage listing, improved coastal management and the establishment of marine reserves.

A one-off, four-year fixed term for the House of Assembly was passed by the Groom Liberal majority government in 1992.<sup>12</sup> This government also introduced Budget Estimates committees in 1994.<sup>13</sup>

The 1996–1998 Liberal–Green minority government<sup>14</sup> included an all-party forum that agreed on televising of parliament; a review of standing orders to achieve decorum in debate; conflict resolution measures; and a procedure for debating crossbench bills.<sup>15</sup> The tripartite gun law reform pursued during the minority arrangement became a model for federal reform following the Port Arthur massacre.<sup>16</sup> During that parliament, there was also an apology to the Tasmanian Aboriginal community for stolen children and the first address

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<sup>8</sup> State Library of Victoria (2024) *About Hansard*, <https://guides.slv.vic.gov.au/tasgovpubs/hansard>

<sup>9</sup> Archer (2015) *Parliament’s Hansard history just a click away*, [https://www.premier.tas.gov.au/releases/parliaments\\_hansard\\_history\\_just\\_a\\_click\\_away](https://www.premier.tas.gov.au/releases/parliaments_hansard_history_just_a_click_away)

<sup>10</sup> The new PRS was established in 1990 for the express purpose to provide in-depth research papers, on request, to support cross-bench and Independent MPs across both the Assembly and Legislative Council to contribute to debate and policy development, and by doing so help ‘level the knowledge playing field’.

<sup>11</sup> Crowley (2003) *Strained Parliamentary Relations: Green-supported minority government in Tasmania*; Griffith (2010) *Minority governments in Australia 1989-2009: accords, charters and agreements*, pp 12–13

<sup>12</sup> The Labor–Green Accord had fixed term legislation listed in the Accord document as an agreed reform to occur, along with Budget Estimates committees, but they did not succeed in introducing these before the Accord broke down. A Liberal majority government was subsequently elected in February 1992.

<sup>13</sup> Parliament of Tasmania (2023) *A brief history of committees*, <https://www.parliament.tas.gov.au/committees/a-brief-history-of-committees>

<sup>14</sup> The 1996–1998 Liberal–Green minority government formed with a confidence and supply agreement, similar to the 2024 agreement between the Liberal Party and Independent MPs David O’Byrne and Kristy Johnston.

<sup>15</sup> Crowley (2003) *Strained Parliamentary Relations: Green-supported minority government in Tasmania*

<sup>16</sup> Crowley (2000) *Parliamentary Experiences of the Tasmanian Greens: the Politics of the Periphery*, <https://eprints.utas.edu.au/1602/>; Inglis (2018) *From the ashes: An oral history of the Rundle government*, <https://www.examiner.com.au/story/5248063/from-the-ashes-an-oral-history-of-the-rundle-government/>

of the Tasmanian Parliament by an Aboriginal person ever.<sup>17</sup> Tasmania finally decriminalised homosexuality under this parliament.

Several major democratic reforms were achieved during the Bartlett Labor Government in 2009, including:

- Right to Information laws (which replaced the previous *Freedom of Information Act 1991*).<sup>18</sup>
- Non-legislated publication of monthly ministerial diaries (2009–2014).<sup>19</sup>
- The *Integrity Commission Act 2009*, which established both the Commission and a Joint Standing Committee on Integrity.

A Code of Conduct for Members of Parliament<sup>20</sup> was adopted with tri-partisan support in 2018,<sup>21</sup> based on a recommendation from the Joint Standing Committee on Integrity.<sup>22</sup>

The 2010–2014 Labor-Green power-sharing parliament went full term and saw an initial tripartite Agreement signed by the three Party leaders on Parliamentary Reform – which included restoring the Assembly numbers, political donation reforms, fixed terms of parliament, and appropriate parliamentary resourcing. Unfortunately, both Labor and Liberal parties used the ongoing Global Financial Crisis fallout to justify pausing the implementation of those agreed reforms.

In 2013, the Parliament passed a bill amending the *Local Government Act 1993* to ban dual representation (up until then people could be local councillors or mayors while also simultaneously working as a state member of parliament), an initiative of the Greens.

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<sup>17</sup> Crowley (2000) *Parliamentary Experiences of the Tasmanian Greens: the Politics of the Periphery*; Inglis (2018) *From the ashes: An oral history of the Rundle government*

<sup>18</sup> Department of State Growth (n.d.) *Right to Information*,  
[https://www.stategrowth.tas.gov.au/about/right\\_to\\_information](https://www.stategrowth.tas.gov.au/about/right_to_information)

<sup>19</sup> Burton (2024) *Will Tasmanians get to see who government ministers really meet?*  
<https://tasmanianinquirer.com.au/news/will-tasmanians-get-to-see-who-government-ministers-really-meet/>

<sup>20</sup> Tasmanian Parliament (2018) *Code of Conduct: Members of the Parliament of Tasmania*,  
[conduct/membersoftasmanianparliament.pdf](https://conduct.tasparliament.gov.au/conduct/membersoftasmanianparliament.pdf)

<sup>21</sup> ABC News (2018) *Code of conduct to be introduced for Tasmanian MPs after full support from Parliament*,  
<https://www.abc.net.au/news/2018-08-23/code-of-conduct-for-mps-set-to-be-adopted/10153716>

# Principles for a healthy democracy

The Nolan Principles were introduced in the United Kingdom (UK) in 1995 to address falling public confidence in the integrity of parliamentarians and the public service. The UK Parliament's Committee on Standards in Public Life set out seven principles to guide the conduct of public officers:<sup>23</sup>

1. **Selflessness:** Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.
2. **Integrity:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.
3. **Objectivity:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices based on merit.
4. **Accountability:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
5. **Openness:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
6. **Honesty:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
7. **Leadership:** Holders of public office should promote and support these principles by leadership and example.

The seven principles have become synonymous with good governance in the UK, with a focus on addressing cultural and behavioural deficits rather than rules and procedures. They also serve as a simple checklist for ensuring public officers adhere to the high standards expected of them by their constituents.

Three key mechanisms have been identified to support the uptake of the Nolan Principles, including Codes of Conduct, independent scrutiny, and education. The Nolan Principles provide a framework to strengthen integrity, accountability, and transparency across all aspects of public life, and increase public trust in government.

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<sup>23</sup> Committee on Standards in Public Life (1995) *Summary of the Nolan Committee's First Report*, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/336840/1stInquiry\\_Summary.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/336840/1stInquiry_Summary.pdf)

# Strengthening Tasmania's democratic architecture

Fortifying Tasmania's democracy is the responsibility of all parliamentarians. Many current Members of Parliament have identified increasing integrity in politics as a top priority. The 51st Parliament of Tasmania provides an excellent opportunity to achieve this, thereby enhancing public trust and confidence in Parliament, government and its institutions.

This paper recommends 16 possible democratic reforms for consideration. The nine reform opportunities in this section are identified as **priorities for this term of Parliament**.

## DONATION DISCLOSURE LAWS

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The Tasmanian Parliament passed limited political donations disclosure laws in 2023, which the Government failed to proclaim in time for the 2024 state election. Even when those laws do come into effect, Tasmania's regulation of political donations will remain the worst in the country.

Tasmania's new donations laws will facilitate one of the highest rates of public funding for election campaigns in Australia with the poorest oversight of donations received and (unlike other Australian jurisdictions that introduced or increased public funding) no expenditure limits for general elections. Third party campaigners will be virtually unregulated.

To address this, changes are needed to strengthen donations disclosure requirements, including by:<sup>24</sup>

- Significantly lowering the proposed donations disclosures threshold from \$5,000 to \$1,000 and guaranteeing real-time disclosure of political donations.
- Broadening the definition of "gift" to capture all payments that might influence politicians.
- Requiring third-party campaigners to disclose relevant donations regardless of when they were made during the electoral cycle.

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<sup>24</sup> Australia Institute Tasmania, Human Rights Law Centre and Australian Conservation Foundation (2021) *Submission: Electoral Act review*, <https://australiainstitute.org.au/report/submission-electoral-act-review/>; The Australia Institute (2023) *Tasmanian civil society organisations call for electoral reform before it is too late*, <https://australiainstitute.org.au/post/tasmanian-civil-society-organisations-call-for-electoral-reform-before-it-is-too-late/>; (2023) *Inadequate electoral reform leaves truth and transparency behind*, <https://australiainstitute.org.au/post/inadequate-electoral-reform-leaves-truth-and-transparency-behind/>



- Introducing a ban on donations from developers and the fossil fuel, tobacco and gambling industries.
- Ensuring public resourcing consistency and equity across both chambers.

Poor oversight of political donations creates an environment in which undue influence can flourish. Tasmanians should be able to make informed decisions about the candidates and political parties they are being asked to vote for – including through openness about where their donations are coming from.

## CAMPAIGN FINANCE REFORM

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Candidates depend on funding to run their election campaigns, connect with constituents and inform voters about the candidate's qualifications and policies. Laws about who receives public funding, how much money candidates can spend and how they can raise money can strengthen democratic competition – or weaken it.<sup>25</sup>

The Australia Institute has identified nine principles for fair political finance reform.<sup>26</sup>

All candidates and contributors should be treated fairly. Five principles that advance this pillar are that political finance reform should:

1. Give voters a range of choices about who represents them
2. Not make it harder for new candidates to compete with incumbents
3. Provide a level playing field regardless of whether candidates are members of a political party or independents
4. Factor in the significant taxpayer-funded advantages of incumbency, with an eye to reducing disadvantages already faced by challengers
5. Account for spillover effects and economies of scale.

Political finance reforms should be targeted and effective. Four principles that advance this pillar are that political finance reform should:

6. Focus on those who most clearly threaten democracy and accountability

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<sup>25</sup> See Browne (2023) *Principles for fair political finance reform*, <https://australiainstitute.org.au/report/principles-for-fair-political-finance-reform/>; (2024) *Submission - Review of the 2023 NSW election*, <https://australiainstitute.org.au/report/submission-review-of-the-2023-nsw-election/>; Browne and Connolly (2023) *Submission: Money and power in Victorian elections*, <https://australiainstitute.org.au/report/submission-money-and-power-in-victorian-elections/>; Browne and Shields (2022) *Fortifying Australian democracy: submission to the inquiry into the 2022 election*, <https://australiainstitute.org.au/report/fortifying-australian-democracy/>; Browne and Walters (2023) *Securing transparency and diversity in political finance*, <https://australiainstitute.org.au/report/securing-transparency-and-diversity-in-political-finance/>; Morison and Browne (2023) *Submission: 2022 Victorian state election inquiry*, <https://australiainstitute.org.au/report/submission-2022-victorian-state-election-inquiry/>

<sup>26</sup> Browne (2023) *Principles for fair political finance reform*

7. Ensure that public funding is fit for purpose
8. Strive for fairness and increased transparency
9. Distinguish between bona fide contributions and “cash for access”.

These principles should guide any political finance reforms adopted by the Tasmanian Parliament, whether public funding, donation caps or spending caps.

**Public funding** in Australia is typically based on the candidate or party’s result at the previous election. This puts new entrants – whether they are new independent candidates or new parties – at a disadvantage, because they must raise through donations the money that established parties and candidates have received from the taxpayer.<sup>27</sup>

In addition, the design of public funding eligibility favours major parties. They are more likely to exceed the threshold to be eligible for public funding and more likely to have spent enough to be able to claim their full entitlement (in systems where public funding is only a reimbursement of costs, as will be the case in Tasmania should the legislation commence).<sup>28</sup>

A viable alternative to the current public funding model is the “democracy voucher” system in use in Seattle, Washington. It allows parties and candidates to raise money based on how much support they currently have among the public, not how many votes they received at the last election.<sup>29</sup>

**Donation caps** in Australia typically limit the amount a donor can give to any given party or candidate, either in a year or over an election cycle. Often, there are exceptions for established political parties. Most of these exceptions are explicit, but some are *de facto* exceptions that any party or candidate could technically use to their advantage.<sup>30</sup>

Even if donation caps were equal under law, they tend to unfairly penalise new entrants because incumbents enjoy large taxpayer-funded incumbency benefits<sup>31</sup> – meaning new entrants need to raise more money, under the same or greater constraints as incumbents.

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<sup>27</sup> Browne and Walters (2023) *Securing transparency and diversity in political finance*, pp 5–7

<sup>28</sup> Browne (2024) *Submission - Review of the 2023 NSW election*, pp. 12–14; Browne and Connolly (2023) *Submission: Money and power in Victorian elections*, pp 12–15

<sup>29</sup> Morison and Browne (2023) *Submission: 2022 Victorian state election inquiry*, pp 17–19

<sup>30</sup> Browne (2024) *Submission - Review of the 2023 NSW election*, pp. 20–24; Browne and Walters (2023) *Securing transparency and diversity in political finance*, pp 7–10; Morison and Browne (2023) *Submission: 2022 Victorian state election inquiry*, pp 16–17

<sup>31</sup> Browne (2024) *Submission - Review of the 2023 NSW election*, pp 8–10; Morison and Browne (2023) *Advantages of incumbency*, <https://australiainstitute.org.au/report/advantages-of-incumbency/>; (2023) *Submission: 2022 Victorian state election inquiry*, pp 14–15

If donation caps are imposed, they should apply to donations to associated entities as well as to parties and candidates.<sup>32</sup>

Last year, the Australia Institute proposed a “mega-donor cap” as an alternative form of donation cap that avoids some of the perverse outcomes from regular donation caps.<sup>33</sup>

**Spending caps** in Australia limit how much a party or candidate can spend on a given election campaign. Major parties and incumbents are less restricted by spending caps than new entrants because major parties can concentrate their state-wide spending cap on a few target seats and because sitting Members of Parliament enjoy significant incumbency advantages.<sup>34</sup>

The principles of fair political finance reform should lead Tasmanian legislators as they weigh up the benefits and costs of spending caps. Tasmania has some natural advantages for fairer spending caps that are not necessarily found in other jurisdictions:

- The state’s media market is cheaper and more consistent than of Australia as a whole, so it is easier to set uniform spending caps for Tasmania than for the whole nation.
- There is evidence of workable spending caps thanks to the Legislative Council, where non-major party candidates are often elected.
- Tasmanian’s multi-member electorates mean:
  - Independents and minor parties are more competitive than in most single-member electorates.
  - There are no safe seats where parties can under-spend to make room to over-spend in target seats.
  - “Spill over benefits” for parties from advertising in adjacent electorates are rarer because electorates are larger.

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<sup>32</sup> Australia Institute Tasmania, Human Rights Law Centre and Australian Conservation Foundation (2021) *Submission: Electoral Act review*

<sup>33</sup> Browne and Walters (2023) *Securing transparency and diversity in political finance*, pp 19–23

<sup>34</sup> Browne and Walters (2023) *Securing transparency and diversity in political finance*, pp 10–14

# TRUTH IN POLITICAL ADVERTISING LAWS

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Truth in political advertising laws allow for misleading and deceptive political advertising to be withdrawn and retracted. In South Australia, truth in political advertising laws have existed since the 1980s. In 2020, at the behest of a crossbencher, the ACT Legislative Assembly unanimously passed truth in political advertising laws that came into effect in July 2021.<sup>35</sup>

Truth in political advertising laws are extremely popular. Not only do they enjoy support from all sides of politics, but Australia Institute polling research in 2021 found that they are also supported by nine in ten Tasmanians (87%) – including over 80% support from across all voting intentions.<sup>36</sup> Tasmanian Labor and crossbenchers support truth in political advertising laws.<sup>37</sup>

In 2023, the Tasmanian Parliament passed limited amendments aimed at ‘modernising’ the *Electoral Act 2004*.<sup>38</sup> This was a missed opportunity to introduce truth in political advertising laws, which can be achieved through a simple amendment, modelled on existing legislation in other jurisdictions.

Such laws could be accompanied by a public ‘ad library’ to which all political advertisements must be submitted.<sup>39</sup>

Instating truth in political advertising laws would advance several of the Nolan Principles: integrity, openness and honesty in particular.

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<sup>35</sup> Elections ACT (2021) *Changes to ACT Legislative Assembly campaign finance and truth in political advertising laws commence today, 1 July 2021*, <https://www.elections.act.gov.au/news/2021/changes-to-campaign-finance-and-truth-in-political-advertising-laws-to-commence-from-1-july-2021>

<sup>36</sup> The Australia Institute (2021) *Polling: Good government in Tasmania*, p 1, <https://australiainstitute.org.au/report/polling-good-government-in-tasmania/>

<sup>37</sup> MacDonald (2024) *Labor challenge to Tasmanian Liberals over integrity investigations ahead of March 23 election*, <https://www.abc.net.au/news/2024-03-07/labor-challenge-to-tasmanian-liberals-over-integrity/103553274>

<sup>38</sup> The Australia Institute (2023) *Inadequate electoral reform leaves truth and transparency behind*

<sup>39</sup> For more detail, see Browne (2019) *We can handle the truth: opportunities for truth in political advertising*, <https://australiainstitute.org.au/report/we-can-handle-the-truth-opportunities-for-truth-in-political-advertising/>

# GRANTS ADMINISTRATION

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The Tasmanian Government has been widely criticised for how it handles financial commitments made to communities during election periods, which has been described as ‘pork barrelling’. Liberal candidates can solicit funding commitments for community projects. Integrity advocate Geoffrey Watson says: “If this was good policy, it would have happened during the period of government, not the period of a campaign.”<sup>40</sup> ABC News reports:

This is the third consecutive election in which the Tasmanian Liberals have been accused of electoral bribery.<sup>41</sup>

Previous grants have attracted controversy on conflict of interest and proper process grounds.<sup>42</sup>

The Tasmanian Integrity Commission has recommended three improvements to funding promises and commitments during election campaigns:<sup>43</sup>

1. The Government consider introducing legislation into Tasmania that incorporates the sentiment from Commonwealth legislation that a Minister must not approve proposed expenditure of relevant money unless satisfied that the expenditure would be a ‘proper’ use of relevant money.<sup>44</sup>
2. The Government consider introducing mandatory grant rules modelled on the Commonwealth Grants Rules and Guidelines. These rules should include compliance mechanisms and apply to Ministers and ministerial staff; grant commitments made during an election period; ad hoc and discretionary grant commitments; and the Premier’s Discretionary Fund.
3. The Government consider adopting the remainder of the recommendations made in 2011 by the Tasmanian Auditor-General about the Premier’s Sundry Grants program (now known as the Premier’s Discretionary Fund).

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<sup>40</sup> Pridham (2024) *Premier denies Tasmanian Liberals “pork-barrelling” accusations, ahead of March 23 state election*, <https://www.abc.net.au/news/2024-03-03/tasmanian-liberals-accused-of-pork-barrelling-election-campaign/103539368>

<sup>41</sup> Pridham (2024) *Premier denies Tasmanian Liberals “pork-barrelling” accusations, ahead of March 23 state election*

<sup>42</sup> Humphries (2022) *Liberal politician scores \$150k grant for rowing club where daughter is a member*, <https://www.abc.net.au/news/2022-06-08/tas-liberal-madeleine-ogilvie-150k-sandy-bay-rowing-club-grant/101135798>; Langenberg (2022) *Decision to award \$400k grant to MP’s community hall a “clear conflict of interest”, Greens say*, <https://www.abc.net.au/news/2022-09-08/tasmanian-government-election-grants-program-under-fire/101420360>

<sup>43</sup> Tasmanian Electoral Commission (2022) *Paper 2: Grant commitments in election campaigns*, <https://integrity.tas.gov.au/publications/publications/research-reports/paper-2-grant-commitments-in-election-campaigns>

<sup>44</sup> See *Public Governance, Performance and Accountability Act 2013* (Cth), s. 71

The three Integrity Commission recommendations should be adopted in full, as a matter of priority, to address the deficient process of current funding commitments made during election campaigns.

## COMMITTEE ON ELECTORAL MATTERS

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Other Australian parliaments have electoral matters parliamentary committees that conduct an inquiry after each election, including how current electoral laws fared and what reforms should be implemented to improve outcomes for subsequent elections.

When proposing an inquiry into the historic first-time co-occurrence of 2021 House of Assembly and Legislative Council elections, Meg Webb MLC identified several concerns with the election.<sup>45</sup> The motion passed the Legislative Council,<sup>46</sup> but not the House of Assembly, when Kristie Johnson MHA took carriage of the motion on Webb's behalf.<sup>47</sup>

The lack of a Tasmanian electoral matters committee is a conspicuous absence. Election inquiries are routine at the federal level and in other states.

Immediately establishing a Joint Standing Committee on Electoral Matters should be a top priority for the 51st parliament. This would enable scrutiny of the administration of Tasmanian elections, consideration of potential new electoral reforms and put impetus behind promised electoral reforms that have faltered, such as recent calls for a review or removal of s 196 of the *Electoral Act 2004*.

A Joint Standing Committee on Electoral Matters should also prioritise addressing recent problems experienced by Tasmanians with a vision impairment and the impediments they experience to voting. No Tasmanian should be disenfranchised due to access constraints.

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<sup>45</sup> Webb (2021) *The Governor's address-in-reply*, <https://megwebb.com.au/the-governors-address-in-reply/>

<sup>46</sup> Armitage (2021) *Motion - response to Joint Select Inquiry on Conduct of 2021 State & Legislative Council Elections*, <https://www.rosemaryarmitage.com/single-post/motion-response-to-joint-select-inquiry-on-conduct-of-2021-state-legislative-council-elections>

<sup>47</sup> Johnston (2021) *Government runs a mile from scrutiny*, <https://tasmaniantimes.com/2021/10/lib-bat-away-election-inquiry/>

## FIXED TERMS - HOUSE OF ASSEMBLY

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Fixed terms give certainty around election dates and remove the ability of a prime minister or premier to call an election at the exact point that is most politically advantageous.<sup>48</sup>

“Snap” elections disadvantage new entrants, as well as independents and minor parties who generally lack the ongoing resources and campaign funds of major parties.

The last two Tasmanian governments (Gutwein and Rockliff Liberal Governments) have sent the lower house – the House of Assembly – to elections prematurely, about a year before the four-year term has expired.<sup>49</sup>

Tasmania’s upper house, the Legislative Council, already has fixed six-year terms. Elections are conducted on a six-year periodic cycle, with elections held every May for a subset of upper house electorates.<sup>50</sup>

All other Australian states and territories have fixed four-year terms.<sup>51</sup> Crossbenchers at the state level have negotiated fixed terms, including the ‘Fabulous 50th Parliament’ in NSW.<sup>52</sup> Former premier Will Hodgman, while in opposition, proposed a private member’s bill to introduce fixed terms, and it received in principle support from the Labor Government and the Greens.<sup>53</sup>

Reinstating fixed four-year terms for House of Assembly elections would demonstrate leadership, selflessness, objectivity and assist with levelling the playing field for political candidates. It should be a priority for the 51st Parliament.

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<sup>48</sup> Hamer (2004) *Can responsible government survive in Australia?* pp 102–110, [https://www.aph.gov.au/About\\_Parliament/Senate/Powers\\_practice\\_n\\_procedures/~/\\_/link.aspx?\\_id=E546DECDB0B04E0C9EF20803027FCB32&\\_z=z](https://www.aph.gov.au/About_Parliament/Senate/Powers_practice_n_procedures/~/_/link.aspx?_id=E546DECDB0B04E0C9EF20803027FCB32&_z=z)

<sup>49</sup> Eccleston and Hortle (2024) *Tasmania is going to an early election. Will the country’s last Liberal state be no more?* <http://theconversation.com/tasmania-is-going-to-an-early-election-will-the-countrys-last-liberal-state-be-no-more-216533>; Langenberg and staff (2021) *Peter Gutwein calls Tasmanian state election for May 1*, <https://www.abc.net.au/news/2021-03-26/tasmania-state-election-announcement/100022084>

<sup>50</sup> Tasmanian Electoral Commission (n.d.) *About Legislative Council elections*, <https://www.tec.tas.gov.au/legislative-council/index.html>

<sup>51</sup> Electoral Council of Australia and New Zealand (2022) *Electoral Systems – Australia*, <https://www.ecanz.gov.au/electoral-systems>

<sup>52</sup> Griffith (2010) *Minority governments in Australia 1989–2009: accords, charters and agreements*, pp. 12, 15

<sup>53</sup> Green (2008) *Fixed term parliaments for Tasmania*, <https://www.abc.net.au/news/2008-08-18/fixed-term-parliaments-for-tasmania/9389042>



# TASMANIAN INTEGRITY COMMISSION

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The Tasmanian Integrity Commission is weak and not fit for purpose. An independent review of the Integrity Commission was completed in 2016 (the Cox Review), yet only six of its 55 recommendations have been implemented to date. One of its recommendations, that public authorities be obliged to notify the Integrity Commission of any allegations of serious misconduct, was reiterated by the Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings.<sup>54</sup>

In July 2022, the Tasmanian Government committed to implementing most of the outstanding recommendations from the Cox Review, as well as addressing some of the deficiencies raised since then.<sup>55</sup> These included solutions to address disclosure of official secrets, unauthorised access to computers, and jurisdiction over Members of Parliament during election campaigns.

The Government committed to developing draft legislation to address these issues, that would be informed by responses to the 2022 Discussion Paper. However, no such legislation has been released to date.

Whilst the changes proposed would be a welcome improvement, they alone will not make the Integrity Commission the watchdog with teeth that the Tasmanian public want and deserve. Australia Institute research found that nearly one in two (48.5%) Tasmanians distrust the Integrity Commission's ability to uncover and prevent misconduct in public administration.<sup>56</sup>

Australia Institute research shows that the Integrity Commission continues to have jurisdictional, funding and secrecy problems:<sup>57</sup>

- It can only investigate misconduct of public officers; it cannot investigate third parties that may be trying to corruptly influence public officials.

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<sup>54</sup> Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings (2023) *The Report: Who was looking after me? Prioritising the safety of Tasmanian children*, vol 1, p 172, <https://www.commissionofinquiry.tas.gov.au/report>

<sup>55</sup> Archer (2022) *Consultation on potential reforms to the Integrity Commission Act 2009*, [https://www.premier.tas.gov.au/site\\_resources\\_2015/additional\\_releases/consultation\\_on\\_potential\\_reforms\\_to\\_the\\_integrity\\_commission\\_act\\_2009](https://www.premier.tas.gov.au/site_resources_2015/additional_releases/consultation_on_potential_reforms_to_the_integrity_commission_act_2009); Tasmanian Department of Justice (2022) *Integrity Commission Act 2009 Legislative Reform Discussion Paper*, <https://www.justice.tas.gov.au/community-consultation/closed-community-consultations2/integrity-commission-act-2009-legislative-reform-discussion-paper>

<sup>56</sup> The Australia Institute (2021) *Tasmanian distrust Tasmanian Integrity Commission highlights need for reform*, <https://australiainstitute.org.au/post/tasmanian-distrust-tasmanian-integrity-commission-highlights-need-for-reform/>

<sup>57</sup> Hay and Carr (2022) *Submission: Giving our watchdog teeth*, <https://australiainstitute.org.au/report/submission-giving-our-watchdog-teeth/>

- It does not have the power to investigate MPs during an election.
- It can only investigate misconduct; all other Australian integrity bodies can investigate corrupt conduct more broadly.
- The current Integrity Commission has never held a public hearing, despite having the power to do so, and does not publish all misconduct investigation reports publicly.

Despite multiple review processes, attempts have failed to strengthen the Integrity Commission to ensure integrity in public office is upheld. Further, such reviews under the current government appear equally unlikely to succeed in addressing its fundamental flaws.

Parliamentarians instead could immediately work to restore public confidence by drafting legislation to create a new, appropriately funded, independent anti-corruption commission that is fit for purpose.

Recent polling by the Australia Institute shows that over three in four (77%) Tasmanians supported replacing the existing Integrity Commission with a new, fit for purpose anti-corruption commission, with stronger mechanisms to investigate misconduct and corruption in public administration, including 55% who strongly supported the measure.<sup>58</sup>

## Lobbying reforms

The Integrity Commission has been reviewing Tasmania's lobbying oversight system to advance transparency, complemented by accessible and practical educative materials. It aims to launch the revised framework, including a new Code of Conduct and related systems, on 1 July 2024. The proposed contact disclosure log is an integral part of the new Code. Successful implementation of a new Code depends on appropriate resourcing to:<sup>59</sup>

- develop and implement user-friendly systems for input of key information by lobbyists to the Register and public officials into a new 'contact disclosure log'
- develop and implement accessible and practical educative, training and advisory materials for all stakeholders
- successful monitoring of compliance with the new systems.

The Integrity Commission considers that the entire Code of Conduct may be given better effect through legislation, consistent with the practice in most jurisdictions, nationally and internationally.<sup>60</sup>

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<sup>58</sup> Australia Institute (2024) *Polling – Tasmanian Election Issues*,

<https://australiainstitute.org.au/report/polling-tasmanian-election-issues/>

<sup>59</sup> Integrity Commission Tasmania (2024) *Reforming lobbying oversight in Tasmania*,

<https://lobbyists.integrity.tas.gov.au/reforming-lobbying-oversight-in-tasmania>

<sup>60</sup> Integrity Commission Tasmania (2024) *Reforming lobbying oversight in Tasmania*

We recommend Parliament consider enshrining the new Lobbyists Code of Conduct in legislation, in accordance with Integrity Commission advice.

## RIGHT TO INFORMATION AND PROACTIVE DISCLOSURE

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Tasmania has had right to information (RTI) laws for 31 years. However, there has been a trend towards concealing as much information as possible, instead of making as much information available as possible.

For 2022–2023 (the most recent year for which data is available), Tasmania’s Ombudsman Richard Connock reports that “86% of my decisions varied or set aside the public authority’s findings, continuing to reflect a very high percentage of errors in decision-making”. In addition, RTI officers need more training, his office is under-resourced, there are “persistent delays” from some authorities and there is a lack of engagement by public authorities with the Ombudsman’s “efforts to resolve matters more quickly and with less formality.”<sup>61</sup>

Last year, the Ombudsman closed 79 applications but still had 89 review applications outstanding. Reviews were open for an average of 602 days.<sup>62</sup>

### Commission of Inquiry recommendations

The Commission of Inquiry into the Tasmanian Government’s Responses to Child Sexual Abuse in Institutional Settings Report *Who was looking after me? Prioritising the safety of Tasmanian children* recommendation 17.8 is to ensure that the *Right to Information Act 2009* (RTI Act) and *Personal Information Protection Act 2004* observes victim-survivors’ right to obtain information in practice and that this access is as simple, efficient, transparent and trauma-informed as possible.<sup>63</sup>

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<sup>61</sup> Ombudsman Tasmania (2023) *Annual report 2022/2023*, p 44,  
<https://www.ombudsman.tas.gov.au/publications/annual-reports>

<sup>62</sup> Ombudsman Tasmania (2023) *Annual report 2022/2023*, pp 46, 51

<sup>63</sup> Commission of Inquiry into the Tasmanian Government’s Responses to Child Sexual Abuse in Institutional Settings (2023) *The Report: Who was looking after me? Prioritising the safety of Tasmanian children*, vol 1, p 166

## Environmental Defenders Office recommendations

The Environmental Defenders Office recommend a range of immediate and longer-term actions to improve the functions of the RTI Act and increase the transparency and accountability of Tasmania's public institutions. Their 2023 report recommends:<sup>64</sup>

1. The RTI Act be amended to include an express statement requiring routine and active release of information to be the preferred method of disclosure.
2. RTI Act be amended to include the explicit presumption that all information sought under the Act is disclosable to a member of the public, unless exempt under the Act and contrary to the public interest to disclose.
3. An independent review of existing exemptions from disclosure under the RTI Act be undertaken to clarify commonly misunderstood or misapplied provisions.
4. The RTI Act be amended to provide a review period of 30 days to replace the current provision that an external review be resolved "as soon as reasonably practicable".
5. The RTI Act be amended to remove the requirement that the Ombudsman provide a "preliminary decision" to public authorities and Ministers where a decision is adverse to them and invite their input.
6. The RTI Act be amended to provide TasCAT with jurisdiction for external review of assessed disclosure decisions, as an alternative and/or consecutive to a review by the Ombudsman.
7. A comprehensive audit of the management and release of government information.
8. The Ombudsman's Office or other suitably qualified independent body be engaged to provide training to public authorities focusing on appropriate applications of RTI exemptions and public interest test, accompanied by commensurate additional revenue.
9. The Ombudsman be required to publish all decisions on external review applications.
10. Additional resources be deployed to the RTI jurisdiction of the Tasmanian Ombudsman's Office as a matter of urgency to arrest and reverse the growing backlog of external review applications.
11. Resourcing and staff distribution in the Ombudsman's Office (and particularly the RTI section) to have sufficient officers.
12. The RTI Act be amended to require regular independent reviews of its operation and implementation.

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<sup>64</sup> Bookless (2023) *Lutruwita/Tasmania's ineffective right to information system and how to fix it*, <https://www.edo.org.au/2023/07/05/transparent-failure-tasmanian-government-is-the-most-secretive-in-australia/>

## Disclosure of Cabinet documents

It is possible to keep cabinet confidentiality while radically increasing public access to cabinet documents. In New Zealand, the proactive release of cabinet material policy means most cabinet papers and minutes recording the decision are published within 30 business days of a final decision being taken.<sup>65</sup> This has not appeared to interfere with the ability of New Zealand cabinet ministers to robustly debate policy ahead of a decision being made.

Tasmania should trial the same arrangement for the term of the 51st Parliament.

## REVIEW WHISTLE-BLOWER LEGISLATION

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The *Public Interest Disclosure Act 2002* allows for public interest disclosures.

A public interest disclosure is a disclosure of ‘improper conduct’ that is ‘serious or significant’. Improper conduct may include illegal activity, corrupt conduct, endangering public health, safety or the environment, misusing or wasting government funds, or breaches of professional codes of conduct.

However, the Tasmanian Commission of Inquiry identified a “complex and confused integrity and oversight model in Tasmania”, including,

Only public officers or contractors who have entered into a contract with a public body can make public interest disclosures under the *Public Interest Disclosures Act 2002*, which limits who can receive the protections under the Act.<sup>66</sup>

Whistle-blower laws should be reviewed to ensure they encourage open government and accountability.

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<sup>65</sup> New Zealand Department of the Prime Minister and Cabinet (2018) *Proactive release of Cabinet material*, <https://dpmc.govt.nz/publications/proactive-release-cabinet-material>

<sup>66</sup> Commission of Inquiry into the Tasmanian Government’s Responses to Child Sexual Abuse in Institutional Settings (2023) *The Report: Who was looking after me? Prioritising the safety of Tasmanian children*, vol 8, p 52

# Functioning of Parliament

## PUBLICATION OF MINISTERIAL DIARIES

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The public have a right to know who is meeting with ministers, when and how often. NSW and Queensland have required ministers to publish their diaries since 2014 and 2013, respectively, and late last year Victoria introduced the same requirement. Victorian ministers will disclose quarterly, as do NSW ministers, while Queensland ministers disclose monthly.<sup>67</sup>

Tasmanian governments flirted briefly with the publication of diaries when the requirement was introduced by Premier David Bartlett in 2009. Diaries were published monthly. Following the defeat of the Labor Government in 2014, the practice lapsed. The Rockliff Government reintroduced more limited and infrequent (quarterly) disclosures in 2023, after the Legislative Council supported Meg Webb MLC's motion calling on them to introduce this measure.<sup>68</sup> Details of meetings should be published as close to real time as possible, identify those present and key issues discussed.

Legislating disclosure of ministerial diaries monthly, or more frequently, including meetings with ministerial advisors only, government officials and attendance at party events,<sup>69</sup> would allow ministers to be held accountable for their meetings with lobbyists and other stakeholders at the time they are making the decisions that the lobbying may influence.

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<sup>67</sup> Queensland Government (n.d.) *Ministers, assistant ministers and chiefs of staff diaries*, <https://www.premiers.qld.gov.au/publications/categories/policies-and-codes/handbooks/ministerial-handbook/ethics/ministerialdiaries.aspx>; NSW Government (n.d.) *Ministers' diary disclosures*, <https://www.nsw.gov.au/departments-and-agencies/the-cabinet-office/access-to-information/ministers-diary-disclosures>; Victorian Government (2023) *2023 ministerial diary disclosures: Ministers are required to publish summaries from their diaries on a quarterly basis*, <https://www.vic.gov.au/2023-ministerial-diary-disclosures>

<sup>68</sup> Burton (2024) *Will Tasmanians get to see who government ministers really meet?*; Tasmanian Department of Premier and Cabinet (2024) *Routine disclosures and Right to Information*, [https://www.dpac.tas.gov.au/rti/MPS\\_routine\\_disclosure\\_log#Ministerial-Diaries](https://www.dpac.tas.gov.au/rti/MPS_routine_disclosure_log#Ministerial-Diaries)

<sup>69</sup> As suggested by journalist Bob Burton: Burton (2024) *Will Tasmanians get to see who government ministers really meet?*

## PUBLISH NEW MINISTER BRIEFS

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In New Zealand, incoming ministerial briefs to new ministers following an election or a change in minister are made public.<sup>70</sup> They provide an introduction to each portfolio, an overview of key areas of policy, and information relevant to other portfolios.

The ministerial briefs serve as educational resources for new Members of Parliament and the public.

## REINSTATE THE WORKING ARRANGEMENTS OF PARLIAMENT COMMITTEE

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A Joint Standing Working Arrangements Committee should be reinstated as a matter of priority and certainly among the first swathe of committees established in a new term of Parliament. The principal role of the Working Arrangements Committee would be to examine and recommend to both Houses measures which may improve the performance and efficiency of the Parliament. Priorities for its consideration should include a review of Parliamentary Committees, ongoing support and resourcing of the Parliamentary Research Service, improving consideration of petitions, and question time reforms.

### Legislative scrutiny committees

All other Australian states have a committee that scrutinises primary legislation. These committees conduct “fine-grained, detailed examination of government legislative proposals looking in particular at the potential impact on individual and civil liberties”.<sup>71</sup>

The Tasmanian Parliament could establish a committee in each house for the routine scrutiny of government legislation, both on its own merits and by reference to its effect on civil rights.

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<sup>70</sup> For example, see New Zealand Foreign Affairs and Trade (2023) *Briefings to Incoming Ministers*, <https://www.mfat.govt.nz/en/about-us/briefings-to-incoming-ministers/>

<sup>71</sup> Uhr (n.d.) *Role and contribution of legislative scrutiny committees*, [https://www.aph.gov.au/About\\_Parliament/Senate/Powers\\_practice\\_n\\_procedures/pops/pop54/c05](https://www.aph.gov.au/About_Parliament/Senate/Powers_practice_n_procedures/pops/pop54/c05)



## Petitions to be debated in Parliament

The Working Arrangements Committee should consider and recommend to Parliament measures to improve consideration of petitions. For example, in the NSW Legislative Assembly, petitions that reach a particular threshold of signatures must be debated in Parliament. Standing orders could be modified to require this in the Tasmanian House of Assembly as well.

## Question Time reforms

The Tasmanian House of Assembly has already made some progress on improving Question Time and Premier Rockliff recently announced his intention to abolish “Dorothy Dixers”. He intends to replace them with constituent questions to “give Tasmanians further access to the Tasmanian Parliament”.<sup>72</sup>

The House of Representatives Procedure Committee conducted an inquiry into practices and procedures relating to Question Time in that chamber. The report, released in 2021, makes a number of additional recommendations, including:<sup>73</sup>

- provision for one supplementary question from one non-government member per day
- a ban on asking about “alternative approaches” (which allows the minister to criticise the opposition).

Supplementary questions are used well in the Senate, and were a feature of House of Representatives Question Time during the 2010–2013 minority federal government. They were previously permitted in the Tasmanian House of Assembly as well.<sup>74</sup>

Question Time, more so than any other parliamentary institution, attracts public attention – but the “bear pit” cut and thrust is rarely edifying. Reforms that would make Question Time a more constructive, admirable part of the parliamentary agenda would significantly improve public trust in politicians.

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<sup>72</sup> Mercury Newspaper (n.d.) *Premier Jeremy Rockliff keen to abolish Dorothy Dixer questions in parliament*, <https://www.themercury.com.au/news/tasmania/premier-jeremy-rockliff-keen-to-abolish-dorothy-dixer-questions-in-parliament/news-story/8c3a6d7c10df88cafc26222a1f23ac4e>

<sup>73</sup> Procedure Committee (2021) *A window on the House: practices and procedures relating to Question Time*, pp. xvii–xix,

[https://www.aph.gov.au/Parliamentary\\_Business/Committees/House/Procedure/Questiontime/Report](https://www.aph.gov.au/Parliamentary_Business/Committees/House/Procedure/Questiontime/Report)

<sup>74</sup> Parliament of Tasmania (2023) *Standing orders*, sec. 46, <https://www.parliament.tas.gov.au/house-of-assembly/standing-orders>; for general information about subordinate legislation, see for example Elder & Fowler (2018) *House of Representatives practice (7th edition)*, pp. 406–414, [https://www.aph.gov.au/About\\_Parliament/House\\_of\\_Representatives/Powers\\_practice\\_and\\_procedure/Practice7](https://www.aph.gov.au/About_Parliament/House_of_Representatives/Powers_practice_and_procedure/Practice7)

## Proactive disallowance of regulations

Regulations, or ‘delegated’ or ‘subordinate’ legislation, are laws made not by Parliament itself but under the authority of an act of Parliament – typically, by government ministers. In Tasmania, regulations are tabled in Parliament, after which they are reviewed by the Subordinate Legislation Committee. The committee can recommend that the Parliament vote to ‘disallow’ (void) the regulations. (Some regulations may be exempt from being disallowed, and Parliament may disallow others even if the committee does not recommend doing so).<sup>75</sup>

A regulation can come into effect before it is considered by the Subordinate Legislation Committee, and potentially disallowed by Parliament. People may make financial or other decisions based on the regulation being in effect, and then be harmed by its disallowance.<sup>76</sup>

In 2010 Ruth Forrest MLC proposed amending the law so that the committee could scrutinise draft regulations.<sup>77</sup> A parliamentary committee considered her bill in 2013, after it was reintroduced, and found that the proposed changes appeared reasonable but that, because existing processes had been in place for so long, “only an overwhelming case for change should be considered” – which the committee found had not been met.<sup>78</sup>

The Working Arrangements Committee could revisit the question of whether the Subordinate Legislation Committee should review draft regulations.

## Dispute resolution between Houses of Parliament

Tasmania’s *Constitution Act 1934* does not provide a dispute resolution mechanism between the Tasmanian Parliament’s two chambers. No mechanism exists such as the federal ‘double dissolution’ of Parliament, which can occur when there is a deadlock between the Senate and the House of Representatives on a proposed law.

Previous efforts to address this included Standing Orders relating to a Joint House Conference of Managers as a procedural mechanism to resolve deadlocks between the two Houses. However, the House of Assembly removed such provisions in 1998.<sup>79</sup>

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<sup>75</sup> Select Committee on Subordinate Legislation (Miscellaneous Amendments) Bill (2013) *Report*, <https://www.parliament.tas.gov.au/committees/house-of-assembly/former/select/hasubleg>

<sup>76</sup> Forrest (2013) *When is scrutiny of subordinate legislation best undertaken?*, <https://www.parliament.qld.gov.au/Work-of-Committees/Inquiries/Inquiry-Details?id=3983>

<sup>77</sup> Forrest (2013) *When is scrutiny of subordinate legislation best undertaken?*

<sup>78</sup> Select Committee on Subordinate Legislation (Miscellaneous Amendments) Bill (2013) *Report*, p. 15

<sup>79</sup> Parliament of Tasmania (2001) *Legislative Council Report 2000–2001*, [https://www.parliament.tas.gov.au/\\_\\_data/assets/pdf\\_file/0015/14424/lcarep0001.pdf](https://www.parliament.tas.gov.au/__data/assets/pdf_file/0015/14424/lcarep0001.pdf)

The Working Arrangements Committee could consider the development of such a mechanism.

## INDUCTION FOR NEW MEMBERS

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Establishing a comprehensive and educative induction process for new parliamentarians is one of the recommendations made to implement the Nolan Principles.

The McKinnon Institute, a partnership between the Susan McKinnon Foundation and Monash University, conducts non-partisan, relevant and robust training for parliamentarians – including new member training.<sup>80</sup> In New Zealand, this function is provided by the Parliament’s education service.

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<sup>80</sup> McKinnon Institute for Political Leadership (n.d.) *Home page*, <https://mckinnoninstitute.org.au/>

# Representation in Parliament

## DEDICATED SEATS FOR TASMANIAN ABORIGINAL PEOPLE IN PARLIAMENT

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The tripartite 2020 report of the House of Assembly Select Committee on the House of Assembly Restoration Bill presented 35 findings and two unanimous recommendations. The first recommendation, to pass legislation to restore the House of Assembly to 35 Members,<sup>81</sup> has been delivered and Tasmania's Lower House numbers have now been restored.

However, the second unanimous recommendation, has to date, been ignored. It is:

That a Joint Parliamentary Inquiry be established in this term of Parliament to develop a preferred model that provides for dedicated seats for Tasmanian Aboriginal people in the Parliament.<sup>82</sup>

The *Pathway to Truth-Telling and Treaty Report* found dedicated seats in State Parliament for Aboriginal members, elected by the Tasmanian Aboriginal population, is well supported.<sup>83</sup>

There is now the opportunity to action this unanimous recommendation and establish a joint parliamentary inquiry to begin the work of identifying a preferred model.

Such an inquiry should recommit to listening to Tasmanian Aboriginal community representatives about how best to make progress on Treaty and Truth-telling.

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<sup>81</sup> Parliament of Tasmania (2022) *House of Assembly Select Committee on the House of Assembly Restoration Bill Final Report*, [www.parliament.tas.gov.au/\\_\\_data/assets/pdf\\_file/0017/53018/rc20final20report20tabled](http://www.parliament.tas.gov.au/__data/assets/pdf_file/0017/53018/rc20final20report20tabled)

<sup>82</sup> Parliament of Tasmania (2022) *House of Assembly Select Committee on the House of Assembly Restoration Bill Final Report*

<sup>83</sup> Warner and others (2021) *Pathway to Truth-Telling and Treaty Report to Premier Peter Gutwein*, pp 10, 43, [https://www.dpac.tas.gov.au/\\_\\_data/assets/pdf\\_file/0029/162668/Pathway\\_to\\_Truth-Telling\\_and\\_Treaty\\_251121.pdf](https://www.dpac.tas.gov.au/__data/assets/pdf_file/0029/162668/Pathway_to_Truth-Telling_and_Treaty_251121.pdf)

# Conclusion

Fortifying Tasmania's democracy is the responsibility of all Parliamentarians. Many current Members of Parliament identified strengthening integrity in politics as a priority during recent election campaigns. The 51st Parliament of Tasmania provides an excellent opportunity to achieve this, thereby enhancing public trust and confidence in Parliament, government and its institutions.

This paper recommends 16 possible democratic reforms for consideration. Work on the top nine priorities should begin as soon as possible as they are long overdue and much needed. These include strengthening donations disclosure requirements and introducing truth in political advertising laws. Reforms to grants administration for funding commitments during election campaigns are ready to adopt. A Joint Standing Committee on Electoral Matters should be immediately established, as should fixed four-year terms for the House of Assembly. A new, appropriately funded, independent anti-corruption commission that is fit for purpose and holds public hearings is urgently needed, as are Right to Information reforms.

Tasmania's new Parliament provides an unprecedented opportunity for reform-minded parliamentarians to strengthening our system of democracy in a coherent and transparent manner. This discussion paper provides prioritised measures that would make government more accountable, ensure public money is better spent and help Parliament operate more smoothly and justly. As previous reform efforts in the state and across Australia show, these reforms can endure and make a lasting impact on the quality and nature of Tasmanian democracy.