

**Submission to the Inquiry into
the Tasmanian Government's use of
provisions of the Financial Management Act
2016 to fund election commitments in 2021**

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Eccleston submission to the FMA Inquiry

I have prepared this brief submission as a senior academic having undertaken research and published widely in fields of governance, public finance and taxation policy. This is a personal submission and the views expressed herein are mine alone and do not necessarily reflect the views of the University of Tasmania or any of the organisations with which I am associated.

This submission provides a high level, principles-based analysis of the governance of election campaign commitments and options for reforming relevant legislation, policies and practices in Tasmania, noting the Inquiry's terms of reference pertaining to "the Tasmanian Government's use of provisions of the Financial Management Act (FMA) 2016 to fund election commitments in 2021."

Introduction

The issues surrounding campaign promises, grants and subsequent reporting and appropriations are both complex and important, especially given the growing and persistent concerns around public integrity in Australia.

For example, ANU's 2019 *Australian Election Study* revealed the lowest levels of trust in government since surveys began in 1969, with only one in four Australians believing 'that people in government could be trusted to do the right thing'; three quarters thought 'that people in government are looking after themselves'.¹ Improving public integrity has now become a main stream political concern and vital for the future health of our democracy.

This submission provides a high-level overview of the principles and issues central to the Inquiry's Terms of Reference, options for reforming the FMA and the more general need for ethical governance and leadership in relation to election commitments.

There are well-established governance criteria for the allocation of grant funds including:

- Transparency and accountability
- Value for money and effectiveness
- Fairness and equity
- Lawfulness

Yet it is equally apparent that it may not be appropriate or possible to apply these criteria to funding decisions announced during election campaigns.

Free, competitive and fair election campaigns are a cornerstone of our democracy but also present specific governance challenges because once Parliament is prorogued and caretaker conventions are applied, election commitments are merely promises made by aspiring candidates or parties and aren't subject to the scrutiny and administrative oversight of formal government policies or programs.

Yet once elected, it would be problematic to deny an incoming government the ability to implement the specific commitments and policies it took to an election. Indeed, to do so would arguably be a greater breach of public trust.

¹ Integrity Commission Tasmania (April 2022) *Paper 2: Grant Commitments in Election Campaigns*
<https://www.integrity.tas.gov.au/publications/publications/research-reports/paper-2-grant-commitments-in-election-campaigns>

It seems there are two key issues that are central to the current FMA Inquiry and the broader national debate around improving the integrity and governance of election campaign commitments. As noted, it may not possible or appropriate to subject campaign promises to the scrutiny and oversight to which government policies and programs developed outside campaign periods are rightly subject. There should however be greater commitment to administrative transparency around campaign commitments and grant programs used to fund these promises.

1. Transparency

The first issue concerns the need for greater transparency and public scrutiny of ad hoc, grant-based election commitments.

Campaign transparency

- Transparency in relation to the quantum of commitments, their policy rationale and the likely source of funding. Parties and candidates should be required to report such commitments beyond a certain threshold during the campaign.
- If an established grant program is used as the basis for funding an election commitment then the public service or other independent authority should make a preliminary assessment of the merit of funding commitments with respect to the established funding program guidelines.
- Given public concern about the transparency and basis for campaign spending commitments, consideration might be given to extending the Ombudsman's powers to report on campaign commitments and their funding during campaign periods. An alternative approach would be to extend the Department of Treasury and Finance's powers to achieve the same effect.

Administrative transparency

- Appropriation
 - A particular concern surrounding the 2021 Tasmanian election is that the part of the appropriation (\$2.5 million) for commitments from the Local Communities Facilities Fund was drawn from the Treasurer's Reserve Fund.² All states and the Commonwealth have various contingency and reserve funds for unanticipated expenditure which is entirely appropriate. Also, expenditure from such funds is generally documented in subsequent budget papers or updates as occurred under the provisions of the FMA 2016. One administrative reform worthy of consideration might be the more timely public reporting of the approval of expenditures from the Treasurer's Reserve.
- Formal advice and Parliamentary scrutiny
 - A further transparency measure worthy of consideration is for the publication of agency advice on the effectiveness and value of policies and grants made during election campaigns above a certain threshold. While it is an elected government's prerogative to implement a poorly designed policy or programs announced during an election campaign, any advice should be made public. Larger programs should be subject to formal evaluation and/or Audit Office review.

² Hansard, November 28 2022. p. 3.

- Campaign funding commitments should be scrutinised by the incoming Parliament at the earliest opportunity.

2. Ethical Governance

While improving transparency and reporting around election commitments is an important, incremental reform, we ultimately need cultural change and ethical political leadership to end the pork barrelling and ad hoc handouts that have come to dominate recent election campaigns across Australia.

We need a greater commitment to policies and programs designed to deliver desired outcomes rather than ad hoc grants. This would ultimately require a commitment to ethical governance which privileges process and the public interest over short term electoral gain.

Well designed and administered grant programs will continue to play an important role given that the community organisations which play such a central role in delivering services and supporting communities are often dependent on grant funding. Noting this, during campaign periods parties and candidates should commit to specific grant programs under which funding decisions would be subject to due process rather than ad hoc funding commitments.

Enhancing the integrity of our system of democratic government and restoring citizens' trust in it ultimately requires collective political leadership. While politically motivated election promises and grants may confer some short-term political dividends, if our political leaders can commit to a credible program of restoring integrity our democratic system then voters may well reward them.

Practice in other Australian jurisdictions

Based on a preliminary analysis it seems that both the Commonwealth and other states are all grappling with how best to improve the integrity and reporting in relation to campaign funding commitments and no one jurisdiction has a practice model which Tasmania could or should emulate. Perhaps the most robust guidelines and principles in relation to the design and allocation of grant programs can be found in the Commonwealth's Grants Rules Guidelines (CGRG) although these often haven't been applied in practice.³

Conclusion

Based on a brief review of relevant materials the use of the LCFF grants and subsequent appropriations from the Treasurer's Reserve seem to be lawful, although there could have been greater transparency and more timely reporting around these commitments. Beyond administrative reforms designed to achieve these ends, all political parties should commit to a more ethical approach to election commitments and campaigning. We need to change the tone of the political conversation and establish election campaigns as a choice between different ideas, policies and programs, rather than ad hoc grants designed to win the vote of key constituencies. This type of political leadership would help restore trust in our democratic system and deliver better outcomes for the communities our parliaments are elected to serve.

Professor Richard Eccleston, March 2023

³ <https://www.finance.gov.au/government/commonwealth-grants/commonwealth-grants-rules-and-guidelines>