

# Securing transparency and diversity in political finance

## Reducing the influence of money in politics

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*Targeted reforms are needed to introduce transparency and diversity into federal political finance: disclosing political contributions in real time, publishing ministers' diaries, stopping the very wealthy from dominating election spending, making public funding accessible to new entrants and restricting corporate cash-for-access payments.*

Discussion paper

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# Contents

Summary.....	1
Recommendations.....	2
Introduction.....	4
Limitations of existing proposals to reform election finance .....	5
Increase in public funding.....	5
Donation caps.....	7
Spending caps.....	10
Perverse outcomes and limitations of donation and spending caps .....	12
Transparency in political finance.....	15
Transparency of lobbying and interests .....	17
Diversity of funding sources .....	19
“Mega-donor cap” .....	19
“Diversity guarantee” .....	23
Recommendations.....	24
Diversity of candidates .....	25
Reforms to restrict corporate money.....	28
Public opinion .....	31
Perceptions of cash-for-access .....	31
Political contributions and perceived threat to democracy.....	35
Conclusion .....	38
Appendix: Polling results .....	39



# Summary

The conventional tools for addressing political finance concerns are public funding, donation caps and spending caps. These tools are blunt instruments that have so far failed to rein in vested interests or address cash-for-access, and they risk many perverse outcomes – most notably, introducing unfair barriers to new entrants, independents and minor parties.

As the Australian Parliament seriously considers changes to electoral laws, including those governing political finance, this paper recommends an alternative suite of political finance reforms that would go a long way to making the political playing field more level and addressing cash-for-access at its roots: exposing it when it happens, making governments pay a political cost for facilitating it and banning it outright where doing so is proportionate, constitutional and likely to be effective.

Disclosing medium and large political contributions in real-time would give voters, civil society and the media information about who is exercising financial influence and on whom. Australia's current disclosure system is shot through with loopholes, sets the disclosure threshold too high and provides too little information about what political payments are made and the circumstances under which they are made.

Disclosing who meets with ministers and what documents they provide to ministers and public servants in the course of those meetings would shine a light on lobbying, and allow the claims made by vested interests to be tested for accuracy and completeness.

Diversity of political voices can be achieved without locking out new entrants by introducing a "mega-donor cap" which limits only the largest and most dangerous political contributions. Had a cap set at 2% of public funding existed at the 2022 election, it would have only have affected four political donors (out of 735 major donors) but it would have more than halved the amount of money given in major donations: from over \$200 million to about \$83 million.

Changes to the law can encourage diverse candidates, maximising the choices available to voters. This should include consideration of new public funding models that accommodate new entrants or improving the current public funding model and being more transparent about how public funds are spent on political communications.

Targeted restrictions on vested interests most corrosive to our democracy are likely to be most effective. This includes considering a ban on political donations from dangerous or polluting industries and from government contractors who have the most to directly gain from influencing government decision-making. Shareholder rights could be strengthened by requiring shareholder approval before publicly-listed companies can make political donations.

Australia Institute polling research finds Australians overwhelmingly agree that cash-for-access should be subject to the same or stricter restrictions as donations to political parties. In addition, Australians are overall more concerned about political contributions from corporations, election candidates and members of Parliament (MPs) and foreign sources than they are about contributions from Australians.

## RECOMMENDATIONS

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Make political finance transparent by:

- requiring *all* political contributions by corporations and *all* cash-for-access payments to be disclosed, regardless of size
- lowering the disclosure threshold for political donations from Australian citizens to \$5,000, or a lower figure if possible
- introducing real-time disclosure of political contributions, including weekly disclosure during an election campaign
- preventing cash-for-access being disguised under the general category of “other receipts” by requiring all other receipts to include more details
- implementing anti-avoidance rules to make sure that donors cannot escape the disclosure threshold by making contributions via different entities they control or by splitting contributions between different branches or affiliated entities of the same party.

Reveal the extent of cash-for-access and expose it to public scrutiny by:

- publishing ministerial diaries as governments do in NSW and Queensland
- disclosing documents made as part of representations to ministers and senior public servants
- digitising the register of members’ interests.

Stop any one voice from dominating the election debate by doing one or both of the following:

- introducing a mega-donor cap that prevents any one entity from contributing election-distorting amounts of money
- introducing a diversity guarantee that prevents any one entity from contributing more than 15% of a candidate’s or party’s total funding for an election.

Address the advantages of incumbency and other barriers to new entrants by:

- establishing a public library of materials funded by the communications allowance paid to parliamentarians, so they can be scrutinised
- exploring alternatives to the current public funding model that would accommodate new entrants

- investigating whether parties that accept public funding should be held to shared public standards around transparency and democracy, and what those standards should be
- consider whether it is feasible to improve access to public funding by replacing the 4% threshold for public funding with a tapered model and capping public funding based on the higher of lower house votes received and upper house votes received.

Reduce the influence of corporate money where it is at most risk of distorting the political process by:

- reviewing whether a ban on political donations and other contributions from big government contractors, including consulting firms, would be appropriate and, if so, how it might be implemented
- reviewing whether a ban on political donations and other contributions from vested interests, including tobacco, liquor, gambling and fossil fuel companies, would be appropriate and, if so, how it might be implemented
- legislating to require publicly-listed corporations to seek member consent for political contributions and memberships of trade associations.
- requiring trade associations to disclose their members and the amount of money contributed by each member
- removing the tax deductibility subsidy for lobbying and political campaigning by corporations.

# Introduction

Despite various attempts to reduce the ability of political donors and interest groups to buy influence, little progress appears to have been made.

Three significant changes to electoral finance laws are sometimes promoted as effective alternatives to private money: increased public funding, donation caps and spending caps.

Public funding provides money to political parties and candidates based on the number of votes they received at the previous election. This allows for parties and candidates to be funded in proportion to their popular support, and in theory would allow them to reject private money. In practice, public funding has failed to prevent or replace private money in politics.

Donation caps limit the amount of money a donor can give to a political party or candidate. In theory, this limits the amount of influence a donor can wield over the government and other elected representatives. In practice, donation caps restrict independents and minor parties, who have fewer non-donation revenue sources, while leaving major funding sources for the major parties untouched.

Spending caps limit the amount of money a given party, candidate or other entity can spend during an election campaign. In theory, this allows for a plurality of voices in which big money cannot dominate the paid advertising market. In practice, spending caps are relatively more restrictive for new entrants because sitting MPs receive millions of dollars of incumbency advantages. They also hurt independents more than major parties, because major parties can funnel spending under a state-wide or nation-wide cap to target seats, effectively spending several times more than the cap in key seats.

Overall, these three electoral finance changes have failed to rein in cash-for-access and the influence of vested interests on the parties of government, and have perverse outcomes. Cash-for-access is a serious issue and damaging to trust in government and confidence in democracy, and contributes to worse political outcomes. What is needed is creative, grounded reforms that can actually address these problems at their source. This paper identifies a body of reforms that would work for this purpose.



# Limitations of existing proposals to reform election finance

## INCREASE IN PUBLIC FUNDING

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While there are many models for public funding of election campaigns around the world, Australia has tended to publicly fund elections by paying candidates a certain number of dollars per vote they receive, provided that they meet a particular threshold (typically 4%). For example, a House of Representatives candidate at the 2022 federal election who won 4% or more of the vote in their electorate would receive \$2.91 per vote. Sometimes, including at the federal level, public funding is limited to compensating for expenses; it serves as a reimbursement rather than a revenue raiser.

Some jurisdictions provide other sources of public funding, such as administrative funding per elected MP (as in the ACT and Victoria) or policy development funding for parties without parliamentary representation (as in Victoria).<sup>1</sup>

Ideally, public funding provides a “no strings attached” revenue stream for parties and candidates that can replace private money. When the Hawke Government introduced public funding in 1984, Minister Kim Beazley said in the second reading speech for the Bill:

The estimated cost of the Federal election campaign earlier this year [1983] was \$12m. It is simply naive to believe that no big donor is ever likely to want his cut some time. The price of public funding is a small insurance to pay against the possibility of corruption.<sup>2</sup>

Inflation adjusted, \$12 million in 1983 is worth roughly \$43 million in 2022. In contrast, the 2022 election campaign cost about \$400 million, of which well over \$300 million was

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<sup>1</sup> Elections ACT (2023) *Administrative funding*, [https://www.elections.act.gov.au/funding\\_and\\_disclosure/funding/administrative\\_funding](https://www.elections.act.gov.au/funding_and_disclosure/funding/administrative_funding); Victorian Electoral Commission (VEC) (n.d.) *Administrative expenditure funding information for registered political parties*, <https://www.vec.vic.gov.au/candidates-and-parties/funding/funding-registered-political-parties/rpp-administrative-expenditure-funding>; (n.d.) *Policy development funding*, <https://www.vec.vic.gov.au/candidates-and-parties/funding/funding-registered-political-parties/rpp-policy-development-funding>

<sup>2</sup> Beazley (1983) *Commonwealth Electoral Legislation Amendment Bill 1983: second reading*, <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=id:%22chamber/hansardr/1983-11-02/0057%22>

income from private sources – including over \$100 million of undisclosed private income.<sup>3</sup> Public funding has totally failed to replace or reduce big donations or prevent corruption.

## Perverse outcomes

The Australian model of public funding, where the money is paid to candidates who exceed a particular vote threshold after each election, based on votes received, has perverse outcomes:

- Major parties in practice receive more funding per vote than minor parties and some independents, because minor parties and independents may fall below the vote threshold whereas major parties almost never do. After the 2022 election, independent and minor party candidates received \$10.6 million less in public funding than their vote count would suggest.<sup>4</sup>
- Because public funding is provided after each election, it is of little use to those candidates running for election for the first time: the money they need to win votes only comes after they have already won (or not won) those votes.
- Because candidates must pass a threshold to receive public funding, a single vote can make the difference between receiving thousands of dollars in funding or nothing in funding. That makes setting the threshold for receiving public funding a more exacting and significant decision than it needs to be.
- Public funding means major parties are no longer dependent on political donations – which means they can limit the donations that their independent and minor party rivals depend on without harming their own re-election campaigns.

Increasing public funding on a dollar per vote basis, as happened in Victoria and the ACT in 2018,<sup>5</sup> will exacerbate these problems unless the funding model itself is improved at the same time.

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<sup>3</sup> Chan and Griffiths (2023) *Big money was spent on the 2022 election – but the party with the deepest pockets didn't win*, <http://theconversation.com/big-money-was-spent-on-the-2022-election-but-the-party-with-the-deepest-pockets-didnt-win-198780>

<sup>4</sup> Author's calculations from Australian Electoral Commission (AEC) (2022) *Tally Room: 2022 Federal Election*, <https://results.aec.gov.au/27966/Website/HouseDefault-27966.htm>; (2022) *2022 federal election: election funding payments finalised*, <https://www.aec.gov.au/media/2022/12-21.htm>

<sup>5</sup> Lawson (2015) *Labor and Liberal scrap cap on donations, boost public funding*, <https://www.canberratimes.com.au/story/6071649/labor-and-liberal-scrap-cap-on-donations-boost-public-funding/>; Muller (2022) *Election funding and disclosure in Australian jurisdictions: a quick guide*, [https://www.aph.gov.au/About\\_Parliament/Parliamentary\\_departments/Parliamentary\\_Library/pubs/rp/rp2122/Quick\\_Guides/ElectionFundingStates](https://www.aph.gov.au/About_Parliament/Parliamentary_departments/Parliamentary_Library/pubs/rp/rp2122/Quick_Guides/ElectionFundingStates)

There are alternative models of public funding that avoid some or all of these perverse outcomes (although they may have problems of their own). Two examples – multiple matching and democracy vouchers – are discussed later in this paper.

## DONATION CAPS

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When a donation cap is in place, a person or organisation is limited in how much they can donate to a particular entity – either in a given year or over an election cycle. For example, in Victoria the cap is about \$4,200 over an election cycle, and a donor cannot give to more than six third-party campaigners.<sup>6</sup>

One question is what qualifies as a donation. The Victorian legislation does not cap membership fees, tithes, union affiliation fees, among others, provided that these are not used to incur electoral expenditure. It also does not limit donations by candidates for their own campaigns.<sup>7</sup>

When Victoria introduced donation caps in 2018, Attorney-General Martin Pakula claimed: “The [donation] cap will ensure a level playing field and provide equal participation in the electoral process, reducing the potential for those with “deep pockets” to try and exert greater influence.”

Australia Institute research reveals that the opposite is true: the caps have further distorted the financial power of some groups.

- Victorian Labor received \$801,000 in donations over the four years (3% of disclosed revenue), compared to \$5.0 million from union affiliation fees and \$3.0 million from mandatory levies on MPs and their staff.
- The Victorian Liberals received \$2.8 million in donations (9% of disclosed revenue), compared to \$4.1 million from Vapold Pty Ltd (a subsidiary of the party), \$1.6 million from corporate memberships (“packageholders and function income”) via Enterprise Victoria and \$4.5 million from sources described as “state electorate recoveries”, “federal electorates” and “Central Fighting Fund” (what types of contribution these represent is unclear to the authors).
- The Victorian Liberals only reported \$272,000 from the Cormack Foundation, although this does not accord with reports that the nominated entity was

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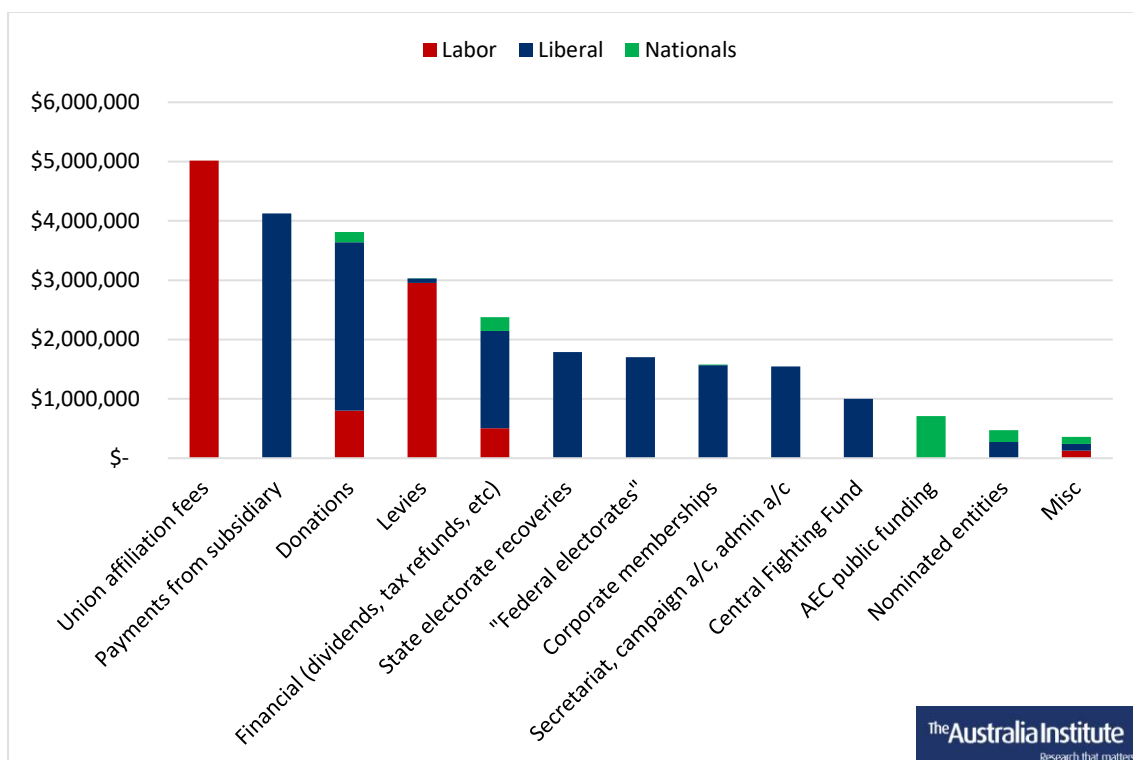
<sup>6</sup> Muller (2022) *Election funding and disclosure in Australian jurisdictions: a quick guide*

<sup>7</sup> For more see Browne and Connolly (2023) *Submission: Money and power in Victorian elections*, <https://australiainstitute.org.au/report/submission-money-and-power-in-victorian-elections/>; Muller (2022) *Election funding and disclosure in Australian jurisdictions: a quick guide*

contributing \$2.5 million to the 2018 state election campaign and \$3 million to the 2022 campaign.<sup>8</sup>

- The Victorian Nationals received \$172,000 in donations (4% of disclosed revenue), compared to \$200,000 from their nominated entity, \$10,000 from corporate memberships and \$10,000 from levies.
- Candidates can donate above the cap to their own campaigns, with one candidate giving \$110,000, 24 times as much as an ordinary Victorian could donate. Overall, 13% of money donated was from the major parties' own candidates.
- Ahead of the last election, one minor party received a \$250,000 payment from a single contributor – which was not subject to the donation cap because it was a membership fee.
- Donors who have given as little as \$1,000 to a political party or candidate have their full name and suburb of residence revealed, but the details of corporations who pay membership fees to parties have not consistently been disclosed.<sup>9</sup>

**Figure 1: Victorian election funding 2018–2022, other than undisclosed revenue and public/administrative funding**



Source: Victorian Electoral Commission (VEC) (2022) *Public annual returns*, <https://disclosures.vec.vic.gov.au/public-annual-returns/>

<sup>8</sup> Preiss (2018) *Cormack Foundation to give Liberals \$8.5m under pre-poll peace deal*, <https://www.theage.com.au/politics/victoria/liberals-to-secure-8-5-million-election-donation-from-cormack-foundation-20181026-p50c4c.html>

<sup>9</sup> Browne and Connolly (2023) *Submission: Money and power in Victorian elections*

Note: Donations and other payments classified by the best efforts of the authors based on the limited information provided in party disclosures.

Nor has the donation cap prevented cash-for-access payments – Enterprise Victoria provides access to Victorian shadow ministers (state and federal) for just \$2,800.

## Cash-for-access payments are below contemplated caps

Cash-for-access describes the exchange of money (or in rarer cases, in-kind contributions) to secure more frequent or privileged access to decision-makers (usually ministers, shadow ministers or other key parliamentarians) than a person or organisation would receive on their own merit.

The data suggests that only small amounts of money are needed to access even senior politicians. It takes only a \$10,000 payment to gain direct access to the prime minister of Australia, the treasurer or the premier of a state.<sup>10</sup> At times, access to the prime minister has cost less than that: \$2,000 for an “intimate” dinner with John Howard (2004), up to \$5,500 for an “intimate” dinner with Julia Gillard (2013) or \$12,500 to meet five ministers of one’s choice before a private dinner with Malcolm Turnbull and his cabinet (2018).<sup>11</sup> It only costs \$2,000 to be one of 10 dining with an Albanese Government minister (2023).<sup>12</sup>

Of course, there is no problem in principle with a prominent person, business or interest group meeting with ministers, premiers or the prime minister – particularly if that meeting is disclosed. However, the introduction of money introduces the risk of perceived conflicts

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<sup>10</sup> Caporn (2017) *Diners pay \$10,000 each to eat with PM*, <https://thewest.com.au/politics/state-election-2017/diners-pay-10000-a-head-to-eat-with-pm-ng-b88391236z>; Johnston (2022) *IBAC: \$10,000 for developer’s dumplings with Daniel Andrews*, <https://www.theaustralian.com.au/nation/politics/ibac-10000-for-developers-dumplings-with-daniel-andrews/news-story/3a8ee4b4980533381ef048b790192120>; Parris (2021) *Morrison’s \$10,000 Newcastle dinner builds Libs’ war chest for Paterson*, <https://www.newcastleherald.com.au/story/7120091/morrison-10000-newcastle-dinner-builds-libs-war-chest/>; Sakkal (2023) *Albanese draws \$150k at high-end dinner as MPs race to beat donation cap*, <https://www.smh.com.au/politics/federal/albanese-draws-150k-at-high-end-dinner-as-mps-race-to-beat-donation-cap-20230817-p5dx7t.html>; Spagnolo (2022) *Federal election 2022: WA business elite pay \$10k each for cosy dinner with Anthony Albanese and Mark McGowan*, <https://thewest.com.au/politics/federal-election/federal-election-2022-wa-business-elite-pay-10k-each-for-cosy-dinner-with-anthony-albanese-and-mark-mcgowan-c-6623536>

<sup>11</sup> Allen (2004) *PM charges \$11,000 for dinner*, <https://www.afr.com/politics/pm-charges-11-000-for-dinner-20040723-jluyj>; Parker, Probyn and Emerson (2013) *Dinner with PM off the menu*, <https://thewest.com.au/news/australia/dinner-with-pm-off-the-menu-ng-ya-351953>; Tadros and McIlroy (2018) *PwC hosts \$12,500 a head “pick a minister” Liberal fundraiser*, <https://www.afr.com/companies/professional-services/pwc-hosts-125000-a-head-pick-a-minister-liberal-fundraiser-20180814-h13xn8>

<sup>12</sup> Spagnolo (2023) *Perth’s elite to dine with Prime Minister Anthony Albanese in Peppermint Grove ahead of Cabinet meeting*, <https://thewest.com.au/politics/anthony-albanese/perths-elite-to-dine-with-prime-minister-anthony-albanese-in-peppermint-grove-ahead-of-cabinet-meeting-c-9795864>

of interest: that the meeting is being given because of the money or because of the perceived alignment with power that comes with a meeting being lined up by the party machine, that what is discussed at the meeting may carry more weight because of that money, or that there may be more money to follow depending on how the politician responds to what is raised at the meeting.

Victoria has some of the strictest donation caps in the country. Nonetheless, the Liberal Party's corporate membership arm, Enterprise Victoria, offers a special "Victorian Support Package" at \$1,000 a year, which is just below the state's donation cap and disclosure threshold.

Other packages, which range from \$2,200 to \$60,000, go to the federal campaign "unless otherwise arranged". The cheapest generally accessible package, at \$2,800, provides the opportunity to attend an annual event that includes informal breakfast with federal MPs, individual meetings with federal MPs, a luncheon with federal ministers and individual meetings with "shadow cabinet ministers and MPs" (federal or state not specified) and access to two boardroom forums (forums for open discussion on issues affecting one's business, chaired by a senior Liberal, with no more than 24 guests).<sup>13</sup>

With access to senior politicians available for relatively small payments, a cap on political contributions would have to be prohibitively low to solve the cash-for-access problem.

## SPENDING CAPS

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Spending caps (also called expenditure caps) limit how much a candidate, political party or third party can spend on an election campaign. Spending caps may apply only to a set period (for example, 12 months before an election) and/or to certain types of expenditure (for example, political advertising but not office expenses).

Spending caps purport to create a level playing field by stopping any one party, candidate or vested interest from outspending (and therefore drowning out) other voices. They also put an upper limit on the amount of money parties benefit from raising and, by extension, on the amount of time and effort politicians must spend fundraising and how much they give up in exchange for funds.

When the Labor Government in NSW introduced spending caps in 2010, Premier Kristina Keneally argued:

We announced that New South Wales would proceed with reform of election funding laws, to provide certainty and confidence in the electorate of the impartiality of government decision-making and of the transparency of process in government.

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<sup>13</sup> Enterprise Victoria (2023) *Membership packages*, available on request, pp 4–5, 7–8

Importantly, these reforms are also directed at reducing the advantages of money in dominating political debate. They provide for a more level playing field for candidates seeking election, as well as for third parties who wish to participate in political debate.<sup>14</sup>

However, the unfair way that parties can bypass the per-electorate spending cap has made the playing field less fair for independents.<sup>15</sup> Later attempts in NSW to limit the role of third parties in the political debate have led to parts of cap being overturned on freedom of political communication grounds.<sup>16</sup>

NSW's combination of generous public funding and spending caps means the major parties need to do very little fundraising; by contrast, independents and minor parties depend on donations to run successful campaigns. For example, ahead of the 2023 state election, most of the Liberal Party's best fundraising MPs and ministers had raised far less money than key independent challengers, even unsuccessful ones.<sup>17</sup>

Similarly, when Queensland legislated spending caps in 2019, Premier Anastacia Palaszczuk said: "To put it simply, voters will not have to worry about whether money talks. So-called cash for access will be gone."<sup>18</sup>

When the laws came into effect in 2022, Palaszczuk ended the Labor Party's business partnership network. Less than one year later, Labor reintroduced the cash-for-access corporate donation scheme; the Liberal National Party had continued to operate its scheme.<sup>19</sup>

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<sup>14</sup> Keneally (2010) *Election Funding and Disclosures Amendment Bill 2010 (NSW): second reading*, <https://www.parliament.nsw.gov.au/bills/Pages/bill-details.aspx?pk=1490>

<sup>15</sup> NSW experience discussed in Browne and Connolly (2023) *Submission: Money and power in Victorian elections*, pp 16–20

<sup>16</sup> Twomey (n.d.) *Background paper – Inquiry into caps on third-party campaigners' electoral expenditure in s 29(11) and s 35 of the Electoral Funding Act 2018*, <https://www.parliament.nsw.gov.au/ladocs/other/17159/Briefing%20paper%20-%20Professor%20Anne%20Twomey.pdf>

<sup>17</sup> Compare Maddison (2023) *Matt Kean shoulders load on NSW Liberals' fundraising*, <https://www.theaustralian.com.au/nation/politics/keen-fundraising-shows-treasurer-has-the-numbers-in-libs-war-chest/news-story/f9ca1fd87c153ac7db9f40c02ad9a448> to disclosures for Scruby, Hannan, Conway, Davidson, Hackman, Regan, among others: NSW Electoral Commission (2023) *Disclosures lodged from financial year 2018/2019 onwards*, <https://efadislosures.elections.nsw.gov.au/>

<sup>18</sup> Elks (2023) *Anastacia Palaszczuk reintroduces cash-for-access business fundraising in Queensland*, <https://www.theaustralian.com.au/nation/annastacia-palaszczuk-reintroduces-cashforaccess-business-fundraising-in-queensland/news-story/942ced3fd4c71097661b89d9a34bbef7>

<sup>19</sup> Elks (2023) *Anastacia Palaszczuk reintroduces cash-for-access business fundraising in Queensland*

# PERVERSE OUTCOMES AND LIMITATIONS OF DONATION AND SPENDING CAPS

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There is significant overlap between the perverse outcomes of donation and spending caps.

**Donation and spending caps make it difficult for emerging parties and candidates to establish themselves:** There are fixed costs to establishing a party or candidate and getting public recognition, which means that new parties and candidates may need to raise and spend more money to get to the same level of public awareness as established parties.

**Donation and spending caps do not account for incumbency advantages:** Sitting parliamentarians already receive substantial financial benefits from incumbency, including their printing allowance, travel allowance, salary, staff and office space.<sup>20</sup> A challenger must raise and spend considerably more than the incumbent just to catch up to the incumbent's publicly-funded benefits.

**Spending caps mean small, "astroturf" groups can speak as loudly as large, representative organisations:** Caps on organisations donating and spending are complicated by the fact that organisations can be of any size and represent any number of people. For example, should five unions with 10,000 members each be able to, in aggregate, donate five times as much as they would if they amalgamated into one union with 50,000 members? Similarly, should five corporations that employ 500 people each be able to, in aggregate, spend five times as much as one corporation that employs 2,500 people?

Some organisations are more representative than others. Union leadership is democratically elected on a one vote, one value basis; corporate leadership rarely is. A 10,000-member union can rightly claim to be more representative than a company that employs 10,000 people, or even a company with 10,000 shareholders (but where some shareholders may hold a much bigger stake than others). Donation and spending caps rarely, if ever, reflect this.

**Treatment of third parties:** If there are donation or spending caps, extending those caps to third parties like associated entities makes sense because otherwise parties and third parties could coordinate to receive and spend money beyond the caps for candidates and parties. However, caps on third parties become fraught when they are not coordinating with parties and candidates. For example, a Labor candidate could get "crowded out" by the spending of an affiliated union that the candidate neither wanted nor benefited from.

Similarly, attention would have to be given to how an "anyone but X" campaign would count in relation to party or candidate expenditure. It might benefit the "anyone else" at different rates or, in some cases, not at all. But if "anyone but X" campaigns did not count

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<sup>20</sup> See Morison and Browne (2023) *Advantages of incumbency*, <https://australiainstitute.org.au/report/advantages-of-incumbency/>



against party or candidate expenditure, it would leave X in the position of not being able to fund a defence of the same magnitude without running up against a cap.

**Different treatment of donations and other receipts:** It would be perverse to limit donations without also limiting other contributions to parties, such as corporate membership fees. These can be worse than donations for our democratic integrity, since they are more likely to constitute payment for access than a donation. Victoria capped donations but not these other payments.<sup>21</sup>

**Some parties and candidates benefit from flow-on effects of spending:** Party candidates benefit from state-wide or national advertising, and advertising in adjacent electorates. Independents and minor candidates need to focus on individual seats, making them more likely to run into localised spending caps.

**Aggregated spending caps unfairly favour major parties:** Some spending cap models (such as the model in NSW) give parties a budget based on all electorates they are running in. Major parties run in most or all seats, but concentrate their spending on priority seats. Under aggregated spending caps, major parties could outspend independents running in only one seat and micro parties that run mostly in priority seats, making up the difference with low expenditure in unwinnable or unlosable seats.

**Jurisdictions without fixed election dates:** It is not clear how spending caps could be implemented in a jurisdiction without fixed elections. If they come into effect once an election is called, then much election spending will not be captured. If they come into effect a fixed time after the last election, then they may apply only for a few months or for a couple of years depending on when the election is called – making it hard for parties and candidates to plan their spending. If they come into effect immediately after the previous election, they risk covering spending unrelated to any election; entities may not even realise until after the fact that they are subject to a cap.

The complexity of Australian federal elections, which includes standard general elections (House of Representatives and half-Senate) and double dissolution elections, would also need to be considered.

**Donation caps exacerbate the problem of politicians spending too much time fundraising:** By reducing the maximum value of any given donation, donation caps mean politicians need to fundraise longer and more often to raise the same amount of revenue.

**Federated structures leave some more limited by spending and donation caps than others:** The federated structure of major political parties can allow for multiple donations across different branches, under different reporting regimens and caps (state/territory vs federal).

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<sup>21</sup> See Browne and Connolly (2023) *Submission: Money and power in Victorian elections*

However, the influence of a donation is not necessarily limited to the jurisdiction in which it takes place or the purpose for which it was made.

Similarly, the Liberal and National parties might be allowed to operate under separate caps but, as they govern together under the Coalition agreement, a donor could contribute twice as much to parties in a Coalition government as they could to the one party in a Labor government. On the other hand, any cap that was aggregated across parties in a coalition could unfairly disadvantage those parties, especially when they run against one another.<sup>22</sup>

## Limiting the perverse outcomes

These perverse outcomes are not necessarily insurmountable.

For example, in a jurisdiction with proportional representation there are larger seats, which reduces the flow-on benefits of spending; and no “safe” seats, which stops major parties from funnelling their spending into priority seats. Stricter spending caps for parties than for independents would also help, but as the Australia Institute has discussed before, new entrants need a considerably higher cap to level the playing field.<sup>23</sup>

This paper includes two models – the “mega-donor cap” and “diversity guarantee” – that would prevent the most egregious cases of wealthy influence over Australian elections while avoiding most of these perverse outcomes.

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<sup>22</sup> An earlier version of this list appeared in Browne and Shields (2022) *Fortifying Australian democracy: submission to the inquiry into the 2022 election*, <https://australiainstitute.org.au/report/fortifying-australian-democracy/>

<sup>23</sup> Browne and Connolly (2023) *Submission: Money and power in Victorian elections*, p. 20

# Transparency in political finance

The most glaring issue in federal political finance is the disclosure (or lack thereof) of political contributions:

- The threshold of \$15,000 is much too high.
- Disclosure takes too long, up to 18 months after a contribution is made.
- The vague other receipts category fails to illuminate why and under what circumstances a political contribution was made.
- Loopholes, including splitting contributions over time or between branches, mean even the threshold of \$15,000 is not a guide to the actual level of contributions.<sup>24</sup>

In the absence of real-time disclosure of contributions, the public only finds out about most contributions long after the relevant election has ended. In the case of corporate disclosures, the disclosures also often happen well after annual general meetings where shareholders might be able to question boards and management about the payments.

As discussed above, access to a minister can cost as little as \$2,000, meaning that any disclosure threshold above that amount would fail to disclose some cash-for-access payments.

Some parliamentarians have expressed concern that:

A lower threshold and “real-time” disclosure may lead to greater harassment and bullying of individuals and small businesses that wish to participate in our electoral process by supporting a candidate or political party.<sup>25</sup>

Customers and clients are entitled to know the political agenda and activity of the businesses that they frequent, and vote with their feet. However, there are legitimate privacy and harassment concerns for people who make donations.

One option to limit these concerns is to set a lower disclosure threshold for cash-for-access payments, like corporate memberships, than for gifts freely given. While reasonable people can disagree about the exact numbers, a workable rule would be to require the disclosure of (a) all cash-for-access payments and all contributions by corporations and (b) donations above \$5,000 freely given by Australian citizens.

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<sup>24</sup> Browne and Shields (2022) *Fortifying Australian democracy: submission to the inquiry into the 2022 election*

<sup>25</sup> Coorey (2023) *Libs wary of booby traps in campaign finance reform proposals*, <https://www.afr.com/politics/federal/lib-s-wary-of-booby-traps-in-campaign-finance-reform-proposals-20230914-p5e4kl>

Robust disclosure of political contributions, in place for the next federal election, would illuminate who funds Australian politicians and candidates and for what purposes. That data would be an invaluable guide for any further electoral law reforms. This is particularly important since electoral law changes may be overturned on constitutional grounds unless there is sufficient evidence to justify those changes.<sup>26</sup>

## Recommendations

Make political finance transparent by:

- requiring *all* political contributions by corporations and *all* cash-for-access payments to be disclosed, regardless of size
- lowering the disclosure threshold for political donations from Australian citizens to \$5,000, or a lower figure if possible
- introducing real-time disclosure, including weekly disclosure during the election campaign
- preventing cash-for-access being disguised under the general category of other receipts by requiring all other receipts to include more details
- implementing anti-avoidance rules to make sure that donors cannot escape the disclosure threshold by making contributions via different entities they control or by splitting contributions between different branches or affiliated entities of the same party.

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<sup>26</sup> Twomey (n.d.) *Background paper – Inquiry into caps on third-party campaigners’ electoral expenditure in s 29(11) and s 35 of the Electoral Funding Act 2018*, p 10

# Transparency of lobbying and interests

Cash-for-access works because much of its operation is obscured from voters, the media and civil society. Disclosing more information about who meets with ministers and when and what materials they give ministers to influence them would shine a light on the phenomenon.

## Publication of ministerial diaries

Ministers in Queensland and NSW are required to publish their diaries, containing all portfolio-related meetings and activities.<sup>27</sup> The same should be required of federal ministers.

## Disclosure of documents made as part of representations to government

Documents made as part of representations to executive government (ministers and senior public servants) should be disclosed automatically. This would help ensure that what interest groups say to governments is consistent with what they say publicly, and would also strengthen the ability of government to act on behalf of the public rather than at the behest of the powerful.

For example, a recent report by climate and sustainability think tank InfluenceMap depended on multiple freedom of information requests to reveal that the Federal Chamber of Automotive Industries has been lobbying for weaker pollution rules for Australian cars while publicly advocating for an orderly transition from petrol to electric vehicles.<sup>28</sup> Information like this should be available in a timely manner as a matter of course.

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<sup>27</sup> Keane (2021) *Transparency, accountability and regulation: corruption body pushes for massive overhaul in lobbying*, <https://www.crikey.com.au/2021/06/23/transparency-accountability-regulation-corruption-body-overhaul-lobbying/>; Queensland Department of the Premier and Cabinet (2023) *The Queensland ministerial handbook: governing Queensland*, p 40, <https://www.premiers.qld.gov.au/publications/categories/policies-and-codes/handbooks/ministerial-handbook.aspx>

<sup>28</sup> InfluenceMap (2023) *The FCAI and Australian Climate Policy*, <https://influencemap.org/briefing/The-FCAI-and-Australian-Climate-Policy-22253>; Cubby (2023) *Inside the car industry's climate lobbying push*, <https://www.smh.com.au/national/inside-the-car-industry-s-climate-lobbying-push-20230522-p5da61.html>

## Digitising the registers of members' interests

Members' interests are currently reported in the form of PDF documents. Every parliamentarian makes an initial statement of interest for each parliamentary term. As a parliamentarian's interests change, their initial statement is appended with notifications of alterations of interests. This contrasts with the register of senators' interests, which as of this term of government is available in HTML form, includes changes in-line and can be searched by keyword.<sup>29</sup> The senators' register is not perfect (for example, it would be good if the search could return individual line items rather than the registers in which the keywords appear), but is a big improvement.

With 151 PDFs, the House registers is difficult to consider as a whole. Patterns across parliamentarians can only be identified through a manual check of all PDFs, and a complete picture of a parliamentarian's interests requires the reader to manually incorporate alterations of interests into the initial statement.

These problems would be addressed by digitising the registers and making them searchable.

## Recommendations

Reveal the extent of cash-for-access and expose it to public scrutiny by:

- publishing ministerial diaries as they do in NSW and Queensland
- disclosing documents made as part of representations to ministers and senior public servants
- digitising the register of members' interests.

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<sup>29</sup> Parliament of Australia (2023) *Register of senators' interests*, [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Senators\\_Interests/Senators\\_Interest\\_s\\_Register](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Senators_Interests/Senators_Interest_s_Register); (2023) *Register of members' interests – 47th Parliament*, [https://www.aph.gov.au/senators\\_and\\_members/members/register](https://www.aph.gov.au/senators_and_members/members/register)

# Diversity of funding sources

The massive election spending funded by Clive Palmer in the 2013 federal election and since shows the vulnerability of the Australian political system to motivated, very wealthy individuals and groups. This spending distorts the political debate to favour the rich and powerful at the expense of other Australians.

Donation and spending caps can, if well designed, limit the influence of vested interests and the very wealthy influence – but have typically been set so low that their main effect is, perversely, to limit challengers and new voices. They can also have loopholes that allow vested interests and the very wealthy to continue spending large amounts, at least in some form.

The two proposals in this chapter take the approach that limiting the influence of vested interests and the very wealthy on elections is best done through caps specifically designed for that purpose, which can be designed to be reasonable, proportional and effective.

## “MEGA-DONOR CAP”

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A simple way to limit the influence of vested interests and very wealthy people is to cap the total amount that contributors can contribute over an election cycle, to all parties, candidates and associated entities. The cap should be based on the aggregation of the political contributions of the original contributor to prevent the cap being evaded by splitting contributions across different recipients.

The cap should be set high enough to limit the perverse outcomes that emerge with traditional donation caps but low enough that it guarantees a plurality of voices. Tying the cap to the level of public funding would allow for it to automatically grow in line with inflation and population growth. It also means that if major party funding dramatically increased due to an increase in public funding per vote, the share others could contribute would increase proportionately.

A cap set at 2% of the total amount of public funding at the previous election would work out to \$1.5 million for the next federal election (on current public funding levels) and \$1.4 million for the 2022 election.<sup>30</sup> Such a cap, had it applied to political donations for the last electoral cycle, would only have affected four political donors (out of 735 major donors) but

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<sup>30</sup> AEC (2020) *2019 election funding and disclosure reports*, [https://www.aec.gov.au/Parties\\_and\\_Representatives/financial\\_disclosure/election-reports.htm](https://www.aec.gov.au/Parties_and_Representatives/financial_disclosure/election-reports.htm); (2022) *2022 federal election: election funding payments finalised*

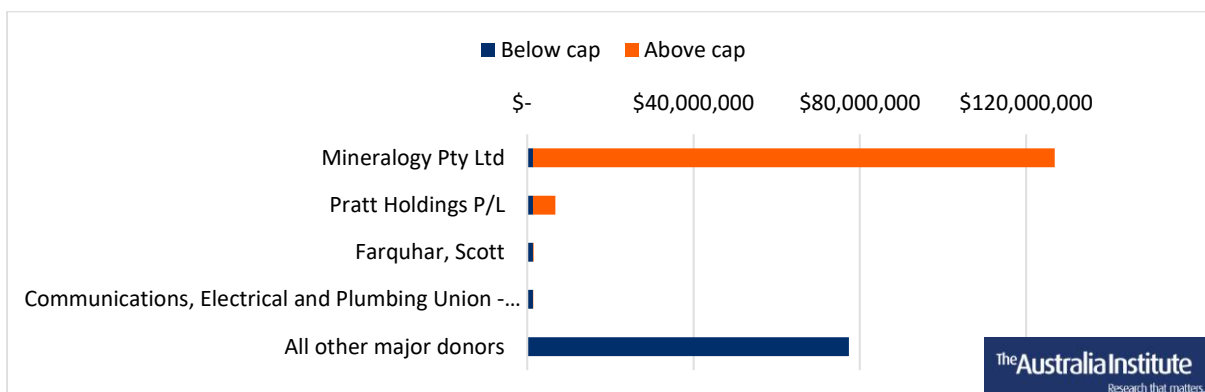
it would have more than halved the amount of money given in major donations: from over \$200 million down to about \$83 million.<sup>31</sup>

A lower cap of 1% of public funding would work out to about \$759,000 for the next federal election on current public funding figures, or about \$696,000 for the 2022 election. The lower cap would increase the number of political donors affected but not reduce the money given in major donations by much. Under a 1% cap, 16 political donors would be affected (out of 735 major donors), and it would have reduced the money given in major donations to \$77 million (compared to \$83 million under a 2% cap).

Figure 2 below shows the effects of a 2% mega-donor cap:

- Clive Palmer’s Mineralogy could only have given about 1% of the \$125.5 million it donated.
- Anthony Pratt’s Pratt Holdings could only have given about 21% of the \$5.4 million it donated.
- Scott Farquhar could have given about 93% of the \$1.5 million he donated.
- The Communications, Electrical and Plumbing Union could have given about 97% of the \$1.4 million they donated (but see the note below about aggregators).

**Figure 2: Effect of a 2% mega-donor cap on major donors**



Source: AEC (2020) *2019 election funding and disclosure reports*, [https://www.aec.gov.au/Parties\\_and\\_Representatives/financial\\_disclosure/election-reports.htm](https://www.aec.gov.au/Parties_and_Representatives/financial_disclosure/election-reports.htm); (2023) *Download all disclosures*, <https://transparency.aec.gov.au/Download>

Because Mineralogy’s donations swamp all others, Figure 3 below reproduces Figure 2 with Mineralogy removed to give a sense of the magnitude of the effect of a mega-donor cap on other donors.

<sup>31</sup> The total donations given is \$223 million, excluding known aggregators. However, because there is a risk of donations being double-counted (one donor gives to an aggregator who gives to a candidate, for example) the conservative figure of over \$200 million has been used.



**Figure 3: Effect of a 2% mega-donor cap on major donors, excluding Minerology**

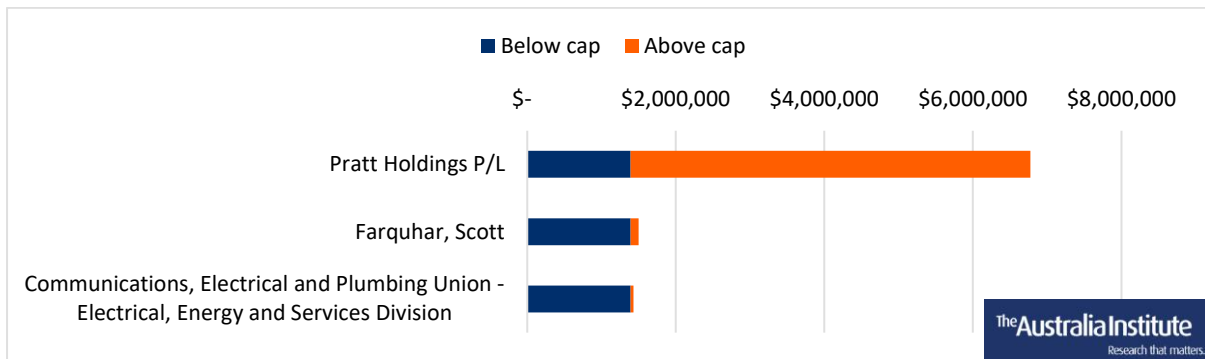
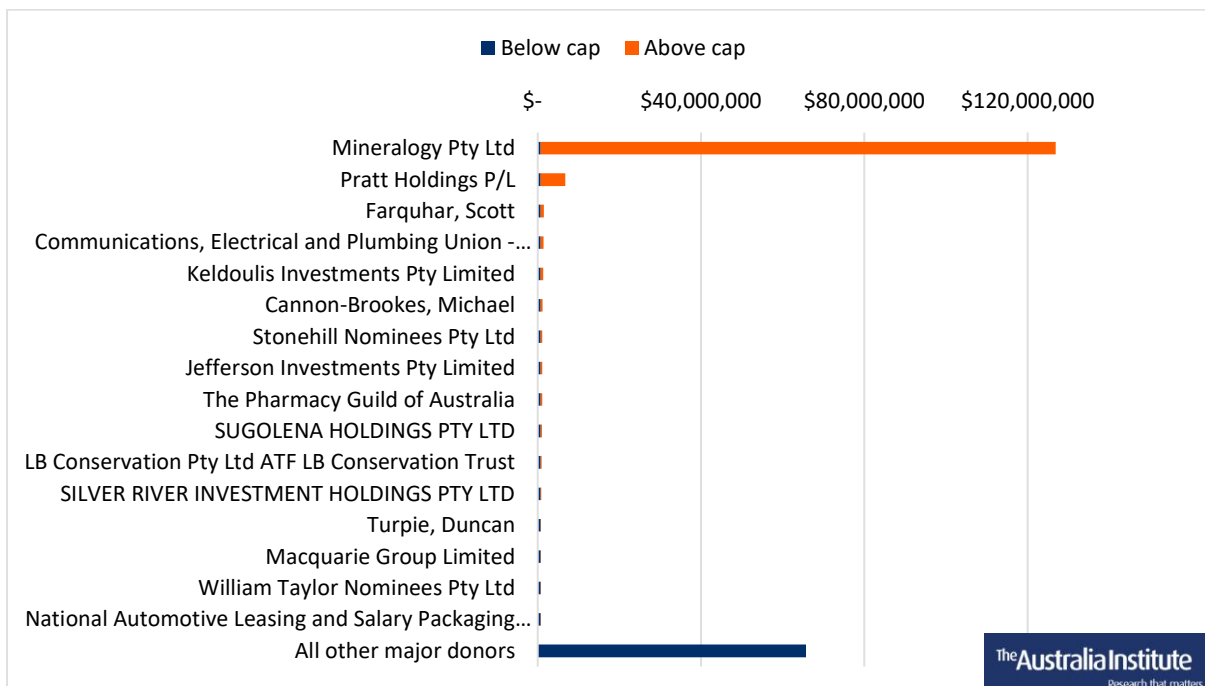


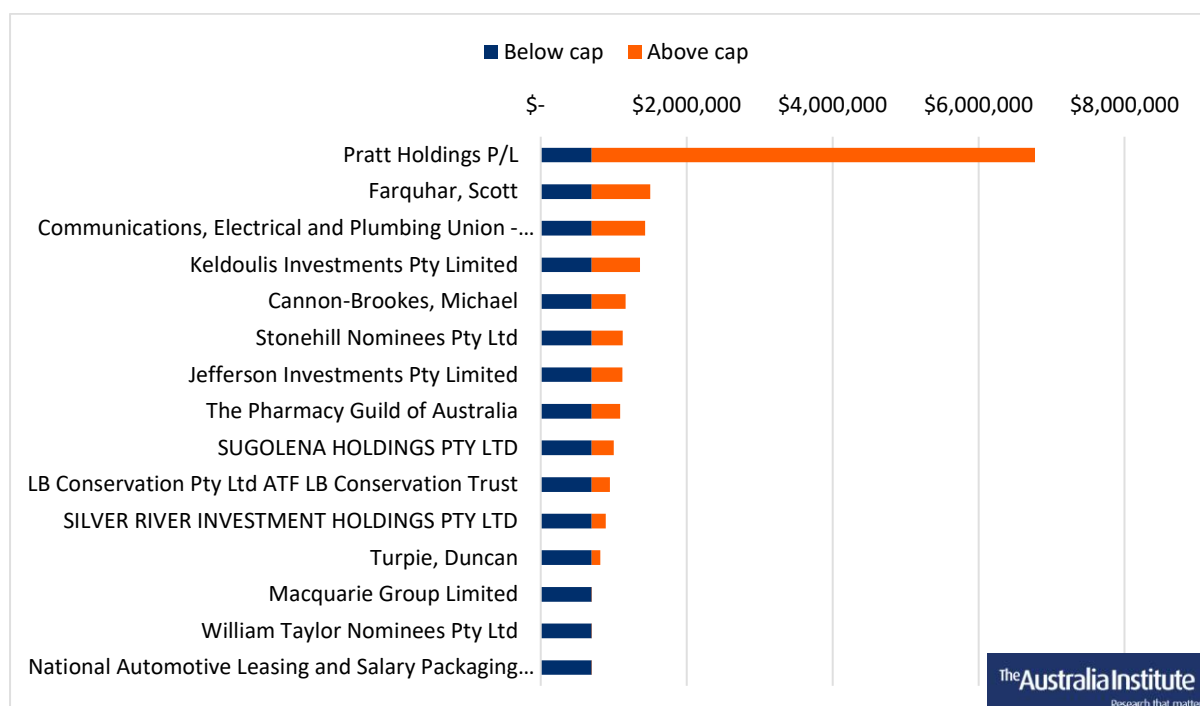
Figure 4 below shows the effects of a 1% mega-donor cap:

- Clive Palmer’s Mineralogy could only have given about 0.6% of the \$125.5 million it donated.
- Anthony Pratt’s Pratt Holdings could only have given about 10% of the \$5.4 million it donated.
- Scott Farquhar could have given about 46% of the \$1.5 million he donated, Keldoulis Investments about 51% of \$1.4 million and Mike Cannon-Brookes about 60% of \$1.2 million.
- Three membership organisations and peak bodies have donated above the 1% threshold: the Communications, Electrical and Plumbing Union, the Pharmacy Guild of Australia and the National Automotive Leasing and Salary Packaging Association. How they would be affected depends on how aggregators are regulated under the cap.

**Figure 4: Effect of a 1% mega-donor cap on major donors**



**Figure 5: Effect of a 1% mega-donor cap on major donors, excluding Minerology**



These figures have been arrived at by aggregating election donor returns for the 2022 federal election and annual donor returns from 2019-20 to 2021-22. Donor returns are mostly limited to donations exceeding about \$15,000, referred to here as “major donations” (and those who gave them as “major donors”).

To be effective, a mega-donor cap would also need to apply to other payments to parties such as membership fees, levies, cash-for-access payments and the like, and donations from associated entities (reported separately to those of other donors). These are harder to isolate from other payments (including those to state branches for state election purposes).

Based on the media coverage of associated entity donation disclosures, there are two associated entities that might be captured by a 2% mega-donor cap: the Cormack Foundation, which donated \$3 million to the Liberal Party, and the Construction Forestry Maritime Mining And Energy Union (CFMEU), which donated \$4.3 million to the Labor Party (but see the note about aggregators below).<sup>32</sup>

<sup>32</sup> McIlroy (2023) *The billionaires who spent the most on political donations revealed*, <https://www.afr.com/politics/federal/anthony-pratt-donates-nearly-4m-to-major-parties-20230130-p5cgn2>

## Aggregators

Two donors – Climate 200 and Boundless Earth – have been excluded because their donations are funded by donations from other contributors, each of whom would be subject to the mega-donor cap. The current donation disclosure scheme allows these donors to be identified, and where they are themselves major donors they appear in the figures above. For example, Boundless Earth donated \$1,165,000, the same amount it received in donations from Mike Cannon-Brookes. Climate 200 is an aggregator: it crowdfunds donations from contributors and makes donations to candidates and significant third parties.

Membership organisations, like trade unions, the Pharmacy Guild of Australia and the National Automotive Leasing and Salary Packaging Association, also serve as aggregators – although these organisations are not primarily crowd funders because they provide other services to their members, and they do not tend to receive declarable political donations.

In general, a mega-donor cap should trace political contributions back to their original source where possible, and cap that donor. Otherwise, there is a risk of donors evading a cap by making their contributions through aggregators.<sup>33</sup> Aggregators should not be capped if they have the informed consent of their members, and those members are subject to the cap.

## “DIVERSITY GUARANTEE”

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To avoid a single wealthy individual exercising undue influence over a party or candidate, there could be a cap on political contributions to a single party or candidate from a single donor.

The right threshold would have to be considered in the context of the size of election campaigns and existing donor diversity. A limit of say 15% would mean that for some of the bigger single-seat campaigns (like some of the campaigns that have seen blue-ribbon seats fall to new entrants), no entity could contribute more than about \$300,000. For the major parties, it would still allow for a single entity to contribute millions of dollars.

In Chile, there is a similar rule already in force: no donor can contribute more than 10% of the total spending cap a candidate is subject to.<sup>34</sup>

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<sup>33</sup> As appears to be the case in the United States: Byler (2023) *How megadonors circumvent laws to give huge checks to politicians*, <https://www.washingtonpost.com/opinions/2023/04/17/campaign-spending-megadonors-joint-fundraising-committees/>

<sup>34</sup> *Law No. 19884 on Transparency, Limit and Control of Electoral Spending* (Chile), art 9, as cited in *Law No. 20900 For the Strengthening and Transparency of Democracy* (Chile), art 5, <https://www.bcn.cl/leychile/navegar?idNorma=1089342>

Such a limit could be administratively complicated, because a campaign will not know before the fact exactly how much they will raise or from whom. To limit the negative effects, there should be a safe harbour of a certain amount of funds that can be raised before the diversity guarantee applies.

## RECOMMENDATIONS

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Stop any one voice from dominating the election debate by doing one or both of the following:

- introducing a mega-donor cap that prevents any one entity from contributing election-distorting amounts of money
- introducing a diversity guarantee that prevents any one entity from contributing more than 15% of a candidate's or party's total funding for an election.

# Diversity of candidates

## New public funding models that accommodate new entrants

While there is no problem with public funding for elections in principle, the way it has been set up in practice serves to favour incumbents at the expense of new entrants. This is because public funding is calculated based on votes received at the previous election; new entrants will not have contested an earlier election.

The Australia Institute has identified two alternatives to the current public funding model:

- “multiple matching”, where small individual donations are topped up with public funding
- “democracy vouchers”, where all electors are given a value that they can contribute to election campaigns.<sup>35</sup>

## Improving the existing public funding model

In the absence of major changes to how public funding is awarded, there could still be tweaks to how public funding is distributed. Because of the 4% threshold before a candidate is eligible for public funding, minor parties and independents tend to receive less public funding per vote than the major parties do.

In addition, while minor parties often campaign for upper house votes, the major parties tend not to. For the major parties, upper house votes are to some extent a side effect of winning lower house votes.

If the 4% threshold were replaced with a tapered system (for example, being funded for every vote after a 2% threshold), it would lead to more equal per-vote funding for minor parties and independents.

If public funding were capped at the higher of lower house votes received and upper house votes received, it would avoid effectively funding major parties for votes that they have not campaigned for.<sup>36</sup>

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<sup>35</sup> Morison and Browne (2023) *Submission: 2022 Victorian state election inquiry*, pp 17–19, <https://australiainstitute.org.au/report/submission-2022-victorian-state-election-inquiry/>

<sup>36</sup> More details in Browne and Connolly (2023) *Submission: Money and power in Victorian elections*

## Democratic standards for parties accepting public funding

Some Australian states are at the point, or approaching it, where political parties are majority publicly funded. While there is no problem with this in principle, it does raise the question of whether the public is entitled to require that the parties that it funds conduct themselves in a transparent and democratic manner.

The independent review of Victoria's electoral and political donations system is considering minimum party administration requirements for major parties, with their review expected to be complete by 24 February 2024.<sup>37</sup> This could potentially inform discussions around what democratic standards should be expected from parties receiving public funding.

## Transparency in the use of public funds

Parliamentarians' communications allowances give them the advantage of building their profile, consulting with their constituents, and making and distributing campaign materials. While there are restrictions on what content can be covered, and parliamentarians are required to submit their expense claims and copies of the communications materials to the Department of Finance, there is no central database of these political publications. Compiling these materials that the Department of Finance already receives into a public database would help ensure that allowances are used strictly within the rules for communications expenditure. This would also include any polling research or market research that has been conducted with public money.

Transparency could also be improved with a badge identifying communications that were publicly funded. To ensure compliance, including this badge could be a condition for claiming back the expense.

## Recommendations

Address the advantages of incumbency and other barriers to new entrants by:

- exploring alternatives to the current public funding model that would accommodate new entrants
- investigating whether parties that accept public funding should be held to shared public standards around transparency and democracy, and what those standards should be

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<sup>37</sup> Victorian Government (2023) *Terms of reference – Independent review of Victoria's electoral and political donations system*, <https://www.vic.gov.au/terms-reference-independent-review-victoria-electoral-political-donations-system>

- considering whether it is feasible to improve access to public funding by replacing the 4% threshold for public funding with a tapered model and capping public funding based on the higher of lower house votes received and upper house votes received
- establishing a public library of materials funded by the communications allowance paid to parliamentarian, so they can be scrutinised.

# Reforms to restrict corporate money

Some corporations have a special interest in government decision making, either because they belong to highly regulated sectors or because they receive lucrative government contracts. These industries should be restricted in the political contributions that they can make.

## Ban on political contributions from vested interests

State governments already ban political donations from industries where the conflict-of-interest risk is considered too large. The NSW Government bans political donations from property developers, and the tobacco, liquor and gambling industries.<sup>38</sup> Queensland bans political donations from property developers.<sup>39</sup>

In terms of government contractors, PwC has announced it will stop making political donations.<sup>40</sup> Accenture has not made political donations for some time.<sup>41</sup> The other Big Four consultants (KPMG, EY and Deloitte) are, so far, not following suit.<sup>42</sup>

Australia Institute polling research finds three in four Australians (74%), including 80% of Coalition voters, 70% of Labor voters and 75% of Greens voters, support banning political donations from organisations that receive funding from government contracts.<sup>43</sup>

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<sup>38</sup> Minns (2023) *Minns Government introduces bill to ban clubs with pokies from donating to NSW political parties*, <https://www.nsw.gov.au/media-releases/bill-to-ban-pokies-donating-to-politics>

<sup>39</sup> Electoral Commission Queensland (ECQ) (2023) *Prohibited donors scheme*, <https://www.ecq.qld.gov.au/donations-and-expenditure-disclosure/prohibited-donors-scheme>

<sup>40</sup> Ross (2023) *PwC dumps political donations as new CEO prepares to land in Australia*, <https://www.theaustralian.com.au/business/financial-services/pwc-dumps-political-donations-as-new-ceo-prepares-to-land-in-australia/news-story/112c079f5f8e1cbee190715f894cfcc2>

<sup>41</sup> Ross (2023) *PwC dumps political donations as new CEO prepares to land in Australia*

<sup>42</sup> Belot (2023) *KPMG and Deloitte refuse to join PwC in banning political donations in Australia*, <https://www.theguardian.com/australia-news/2023/jul/12/pwc-scandal-kpmg-deloitte-ban-political-donations>

<sup>43</sup> The Australia Institute (2023) *Voters back donations ban for government contractors*, <https://australiainstitute.org.au/post/voters-back-donations-ban-for-government-contractors/>



## Use of company money for political purposes without any reference to shareholders

In Australia companies rarely seek shareholder approval for corporate political contributions.<sup>44</sup> In the United Kingdom, political use of corporate funds is a matter for shareholders not boards or executives.<sup>45</sup> This simple change in corporate governance significantly reduced the problems associated with corporate political expenditure.

Somewhat similar rules exist for trade unions in the UK. Unions must establish a separate political fund, and no member is obliged to contribute to it. The fund can be used for party political purposes.<sup>46</sup>

While the US does not have the same rule, disclosure of, and restrictions, on corporate political expenditure are a frequent topic of shareholder resolutions.<sup>47</sup>

A simple way to encourage companies and trade associations to be aligned with the interests of shareholders would be to require public companies to secure shareholder approval of political donations and memberships of trade associations.

## Transparency measures

Since trade associations are actively involved in lobbying government and parliamentarians, often make political contributions, and may run political advertising campaigns, reforms that make these processes more transparent would shed light on association behaviour.

Regulation that requires trade associations to disclose their members and the amount of money contributed by each member would help illuminate corporate influence.

## No tax deductibility for lobbying and political campaigning

Trade association memberships and political advertising are tax deductible for corporations. In effect, this means the public subsidises industry campaigns to influence government policy. In 2015, the Australia Institute estimated that fossil fuel lobby group memberships

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<sup>44</sup> ISS-ESG (2023) *Corporate political expenditure in Australia*, <https://australiainstitute.org.au/report/the-hidden-political-expenditure-of-australian-corporations/>

<sup>45</sup> Watson and McKenzie (2022) *Shareholders' rights in private and public companies in the UK: overview*, "Issues to be approved at an AGM", <https://uk.practicallaw.thomsonreuters.com/5-613-3685>

<sup>46</sup> UK Department for Business, Energy & Industrial Strategy (2018) *Trade union political funds: a guide for trade unions, their members and others*, p 7, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/683245/trade-union-political-funds-guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/683245/trade-union-political-funds-guidance.pdf)

<sup>47</sup> See Pender (2016) *Corporate political expenditure in Australia*, [https://www.accr.org.au/downloads/ACCR\\_Corporate\\_Political\\_Expenditure.pdf](https://www.accr.org.au/downloads/ACCR_Corporate_Political_Expenditure.pdf)

alone cost the taxpayer about \$20 million per year.<sup>48</sup> Removing tax deductibility for lobbying and political campaigning (the latter could be defined as advertisements requiring authorisation) would remove this loophole.

## Recommendations

Reduce the influence of corporate money where it is at most risk of distorting the political process by:

- reviewing whether a ban on political donations and other contributions from big government contractors, including consulting firms, would be appropriate and, if so, how it might be implemented
- reviewing whether a ban on political donations and other contributions from vested interests, including tobacco, liquor, gambling and fossil fuel companies, would be appropriate and, if so, how it might be implemented
- legislating to require publicly-listed corporations to seek member consent for political contributions and memberships of trade associations
- requiring trade associations to disclose their members and the amount of money contributed by each member
- removing the tax deductibility subsidy for lobbying and political campaigning by corporations.

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<sup>48</sup> Campbell and others (2015) *Powers of deduction: tax deductions, environmental organisations and the mining industry*, p 11, <https://australiainstitute.org.au/report/powers-of-deduction-tax-deductions-environmental-organisations-and-the-mining-industry/>

# Public opinion

In October 2023, the Australia Institute surveyed a sample of 1,600 Australians about their perceptions of cash-for-access: payments made to gain access to a politician or other decision maker.

## PERCEPTIONS OF CASH-FOR-ACCESS

Respondents were shown the following:

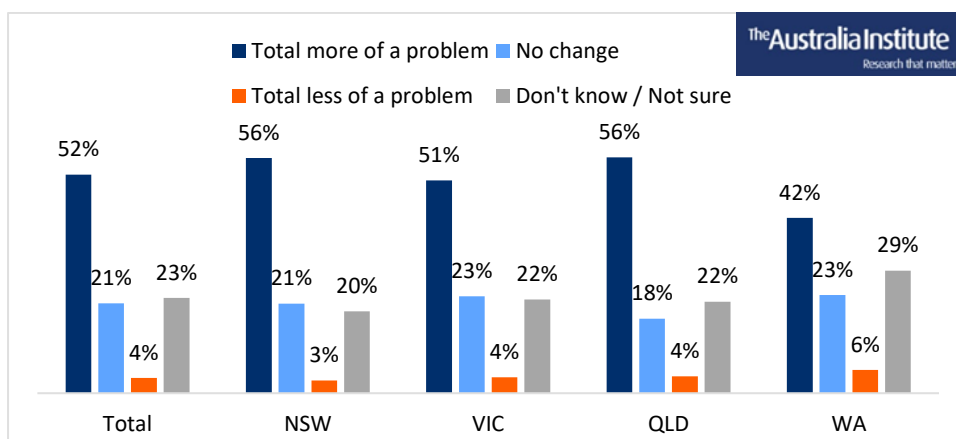
Cash-for-access is defined as a payment to gain access to a politician or other decision maker. For example, making a donation to a political party in exchange for having dinner with a minister.

They were then asked – when thinking about their specific state or territory politics specifically – whether they would say that cash-for-access has become more of a problem or less of a problem over the past five years.

The results show that:

- A majority of Australians (52%) think that cash-for-access has become more of a problem over the past five years.
  - One in five think there has been no change (21%), while only one in 20 think it has become less of a problem (4%).
- A majority of Australians think that cash-for-access has become more of a problem across all larger states (NSW 56%, Victoria 51%, Queensland 56%) except for WA, where two in five respondents think this (42%).
- Across all larger states, only one in 20 think cash-for-access has become less of a problem over the past five years (NSW 3%, Victoria 4%, Queensland 4%, WA 6%).

Figure 6: Problem of cash-for-access, by state



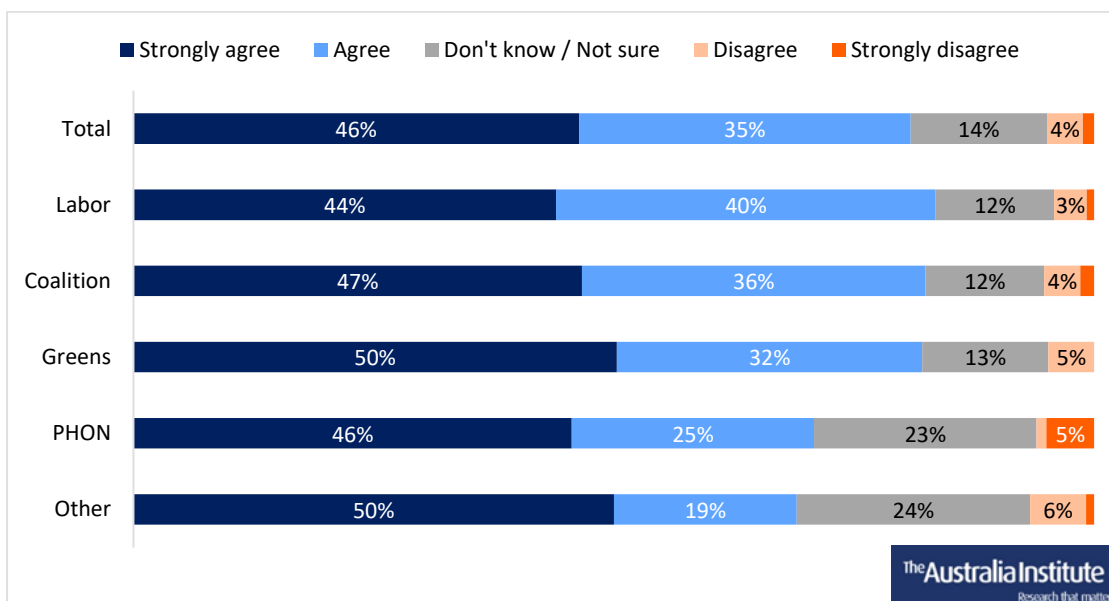
Respondents were asked to what extent they agree or disagree with the following statement:

Cash-for-access should be subject to the same or stricter restrictions as donations to political parties.

The results show that:

- Four in five Australians (81%) agree that cash-for-access should be subject to the same or stricter restrictions as donations to political parties, including 46% who strongly agree.
  - Only one in 20 disagree (5%).
- Agreement was consistent across all voting intentions (Labor 84%, Coalition 82%, Greens 82%, One Nation 71%, Independent/Other 69%), with half of Greens voters (50%) and Independent/Other voters (50%) showing strong agreement.
- Across all voting intentions, only about one in 20 disagree that cash-for-access should be subject to the same or stricter restrictions as donations to political parties.

**Figure 7: Restrict cash-for-access like political donations, by voting intention**



## Political finance rules in the large states

Victoria and Queensland have introduced stricter political finance rules in the past five years.

From 2002, Victoria had a donation cap of \$50,000 that only applied to gambling licence holders.<sup>49</sup> In 2018, Victoria introduced a general donations cap. The new cap is indexed to the Consumer Price Index (CPI) and is \$4,670 as of 2023.<sup>50</sup> Victoria does not have a cap on electoral campaign spending.<sup>51</sup>

Queensland legislated donation and spending caps in 2020.<sup>52</sup> The donation caps came into effect from July 2022, and are \$6,000 for electoral candidates and \$4,000 for political parties.<sup>53</sup> The spending caps are indexed to CPI and are \$94,964 per district for registered political parties, \$60,499 for endorsed candidates (in addition to party spending) and \$90,748 for independents.<sup>54</sup>

NSW legislated expenditure and donation caps in 2010: \$5,000 for donations to registered parties or groups of candidates and \$2,000 for donations to an unregistered party (or party registered for less than 12 months), elected member or candidate. In 2018, an amendment set the caps to \$6,100 and \$2,700 respectively and introduced CPI indexation. The caps are now \$7,600 and \$3,600 respectively.<sup>55</sup>

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<sup>49</sup> *Electoral Act 2002* (Vic), s 216(1), version as at 1 September 2002, <https://www.legislation.vic.gov.au/in-force/acts/electoral-act-2002/064>; *Electoral Act 2002* (Vic), s 217D, version as at 25 November 2018, <https://www.legislation.vic.gov.au/in-force/acts/electoral-act-2002/064>

<sup>50</sup> VEC (n.d.) *Political donations*, <https://www.vec.vic.gov.au/candidates-and-parties/political-donations>

<sup>51</sup> Godde (2022) *Vic needs election spending cap: watchdog*, <https://www.canberratimes.com.au/story/7939387/vic-needs-election-spending-cap-watchdog/>

<sup>52</sup> McCutcheon and Hartley (2020) *Political donations and election spending capped in Queensland as 'historic' laws pass Parliament*, <https://www.abc.net.au/news/2020-06-18/political-donations-capped-queensland-labour-laws-elections/12368128>

<sup>53</sup> ECQ (2023) *Caps on political donations (candidates)*, <https://www.ecq.qld.gov.au/election-participants/state-election-participants/candidates/caps-on-political-donations>; ECQ (2023) *Caps on political donations (registered political parties)*, <https://www.ecq.qld.gov.au/election-participants/state-election-participants/registered-political-parties>; *Electoral Act 1992* (Qld), s 252, <https://www.legislation.qld.gov.au/view/html/inforce/current/act-1992-028>; *Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020* (Qld), s 2(1)(c)(ii), <https://www.legislation.qld.gov.au/view/html/asmade/act-2020-020>

<sup>54</sup> *Electoral Act 1992* (Qld), ss 281C, 281D; ECQ (n.d.) *Expenditure caps for registered political parties and endorsed candidates*, [https://www.ecq.qld.gov.au/\\_\\_data/assets/pdf\\_file/0020/56621/Fact-sheet-10-Expenditure-caps-for-registered-political-parties-and-endorsed-candidates.pdf](https://www.ecq.qld.gov.au/__data/assets/pdf_file/0020/56621/Fact-sheet-10-Expenditure-caps-for-registered-political-parties-and-endorsed-candidates.pdf); ECQ (2023) *Incurring electoral expenditure*, <https://www.ecq.qld.gov.au/election-participants/state-election-participants/candidates/incurring-electoral-expenditure>

<sup>55</sup> *Election Funding, Expenditure and Disclosures Act 1981* (NSW), s 95A, <https://legislation.nsw.gov.au/view/whole/html/2015-07-08/act-1981-078>; *Electoral Funding Act 2018*

Spending caps in NSW vary based on the candidate and campaign. Legislation in 2010 capped expenditure for Legislative Assembly (LA) candidates at \$100,000 for party-endorsed candidates and \$150,000 for independent candidates. Legislative Council (LC) groups were capped at \$1,050,000 and ungrouped candidates at \$150,000. In 2018, an amendment increased the caps and introduced CPI indexation. The caps are now \$150,700 for endorsed LA candidates, \$225,800 for independent LA candidates, \$1,579,400 for LC groups and \$225,800 for ungrouped LC candidates.<sup>56</sup>

WA does not have any legislation restricting donations or electoral expenditure, although caps on election campaign expenditures are (at the time of writing) being debated in the Legislative Council.<sup>57</sup>

Despite stricter rules, the majority of Victoria and Queensland residents perceived cash-for-access as representing more of a problem in the past five years, as did residents of NSW and WA, where political finance rules were not tightened.

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(NSW), s 23, <https://legislation.nsw.gov.au/view/html/inforce/current/act-2018-020>; NSW Electoral Commission (2023) *Caps on political donations*, <https://elections.nsw.gov.au/funding-and-disclosure/political-donations/caps-on-political-donations>; HawkerBritton (2023) *NSW Election Funding and Disclosures Amendment Bill 2010*, <https://www.hawkerbritton.com/archive/nsw-election-funding-and-disclosures-amendment-bill-2010/>

<sup>56</sup> *Election Funding, Expenditure and Disclosures Act 1981* (NSW), s 95F; *Electoral Funding Act 2018* (NSW), s 29; NSW Electoral Commission (2023) *What are the expenditure caps for state elections?* <https://elections.nsw.gov.au/funding-and-disclosure/electoral-expenditure/caps-on-electoral-expenditure/what-are-the-expenditure-caps-for-state-elections>

<sup>57</sup> Hastie (2023) *WA political donation loophole closed, but property developers can breathe easy*, <https://www.watoday.com.au/politics/western-australia/cook-closes-political-donation-loopholes-but-doubles-taxpayer-payouts-to-parties-20230919-p5e621.html>; Electoral Amendment (Finance and Other Matters) Bill 2023 (WA), <https://www.parliament.wa.gov.au/parliament/bills.nsf/BillProgressPopup?openForm&ParentUNID=26C7ADC5403D96D648258A2F002E1DA4>

# POLITICAL CONTRIBUTIONS AND PERCEIVED THREAT TO DEMOCRACY

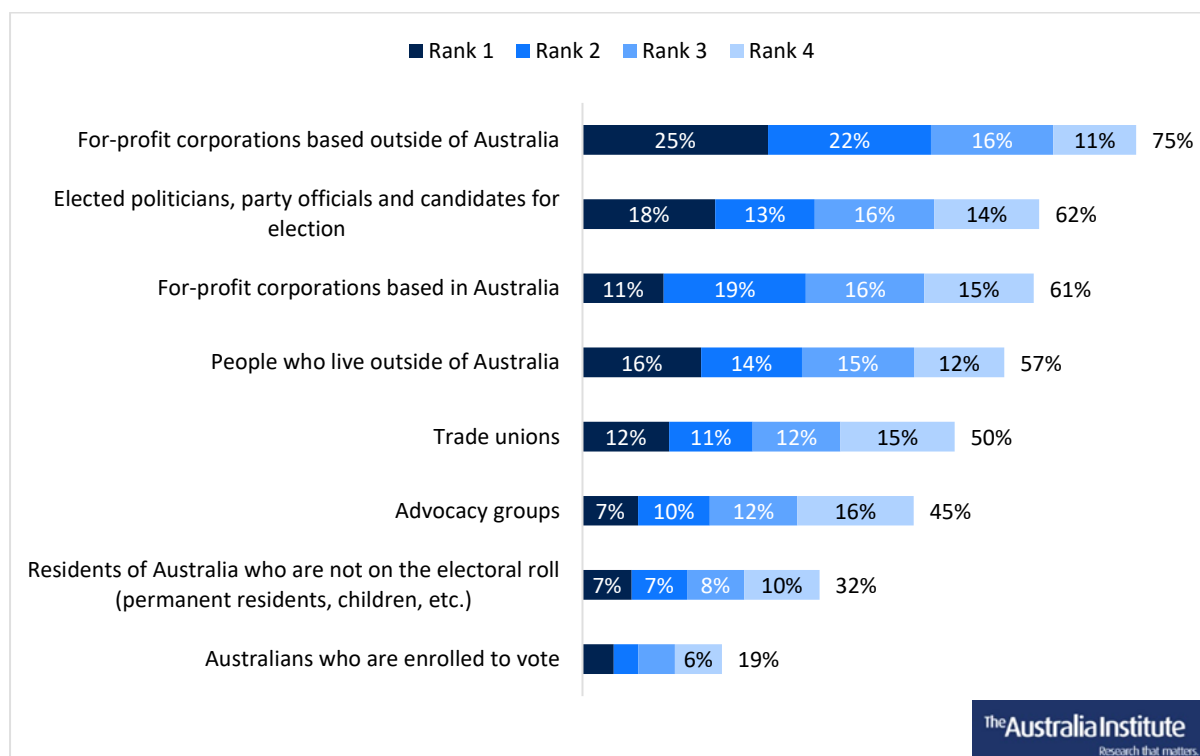
Respondents were shown the following:

Many types of people and organisations can make payments to political parties and candidates. Thinking about payments from the following groups, which do you think would be most threatening to democracy?

They were then asked to rank eight responses in order, with one being the most threatening to democracy.

- Corporations (both those based outside Australia and those based in Australia); elected politicians, party officials and candidates and people who live outside of Australia were ranked in the upper half of threats by the most Australians.
- Residents of Australia not on the electoral roll and Australians enrolled to vote were ranked in the upper half of threats by the fewest Australians.

**Figure 8: Threat level to democracy, by Rank 1-4**



The results show that Australians are more concerned with foreign influence in their elections from both foreign corporations and individuals than they are with their domestic counterparts.

- Three in four Australians (75%) rank for-profit corporations based outside Australia within their top four threats to democracy (first overall).
- Just under three in five Australians (57%) rank people who live outside of Australia within their top four threats to democracy (fourth overall).

Since 2018, the *Commonwealth Electoral Act 1918* has heavily restricted foreign donations.<sup>58</sup>

Australians are also more concerned with payments made to political entities from corporations compared to those made by individuals, with for-profit corporations based both domestically and abroad ranked as top threats. Australians who are enrolled to vote are ranked as being the least threatening of the options presented.

- Three in five Australians (61%) rank for-profit corporations based in Australia within their top four threats to democracy (third overall), with one in ten (11%) ranking them as their number one threat (fifth overall).
- One in five Australians (19%) rank Australians enrolled to vote within their top four threats to democracy (eighth overall), with just one in 20 (4%) ranking them as their number one threat (eighth overall).

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<sup>58</sup> AEC (2021) *Foreign donations*,

[https://www.aec.gov.au/Parties\\_and\\_Representatives/financial\\_disclosure/files/foreign-donations-fact-sheet.pdf](https://www.aec.gov.au/Parties_and_Representatives/financial_disclosure/files/foreign-donations-fact-sheet.pdf); Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Bill 2018 (Cth),

[https://www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation/Bills\\_Search\\_Results/Result?bid=s1117](https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bid=s1117)



Elected politicians, party officials and candidates for election were found to be the second most threatening option overall for both top four rankings and first place rankings.

- Three in five Australians (62%) rank elected politicians, party officials and candidates for election within their top four threats to democracy (second overall), with two in five (18%) ranking them as their number one threat (second overall).

Both trade unions and advocacy groups were considered less threatening overall than for-profit corporations and foreign actors when considering top four rankings. However, trade unions placed higher than for-profit corporations based in Australia when considering the number one threat ranking.

- Half of Australians (50%) rank trade unions within their top four threats to democracy (fifth overall), with one in ten (12%) ranking them as their number one threat (fourth overall).
- Under half of Australians (45%) rank advocacy groups within their top four threats to democracy (sixth overall), with under one in 10 (7%) ranking them as their number one threat (sixth overall).

Similar to Australians who are enrolled to vote, residents of Australia who are not on the electoral roll were also considered among the least threatening to democracy.

- One in three Australians (32%) rank residents of Australia who are not on the electoral roll within their top four threats to democracy (seventh overall), with just one in 20 (7%) ranking them as their number one threat (seventh overall).

# Conclusion

Political finance reform is difficult. Seemingly promising changes come with perverse outcomes, and the track record of Australian parliaments when it comes to introducing fair, effective electoral law reform is poor.

In the absence of broader changes to the public funding model and the conduct of elections, the conventional tools of increased public funding, donation caps and spending caps are unlikely to be any more effective at the federal level than they have been at the state level. The evidence from recent state elections is that donation and spending caps can be deeply unfair, and public funding can serve to prop up political parties at the expense of challengers.

This paper identifies diversity of candidates and funding sources, transparency of political finance, transparency around lobbying (including publishing ministerial diaries) and restricting corporate money in politics as priorities. These changes are likely to have the greatest positive effect and with few or no unintended consequences.

# Appendix: Polling results

## Method

Between 3 and 9 October 2023, The Australia Institute surveyed 1,002 adults living in Australia, online through Dynata’s panel, with nationally representative samples by gender, age group and state/territory. A further 472 South Australians and 126 Queenslanders were sampled to produce more precise results, but weighting was used to ensure that people from these states were not over-represented in national results.

Voting crosstabs show voting intentions for the House of Representatives. Those who were undecided were asked which way they were leaning; these leanings are included in voting intention crosstabs.

The research is compliant with the Australian Polling Council Quality Mark standards. The long methodology disclosure statement follows.

### Long disclosure statement

The results were weighted by three variables (gender, age group and state or territory) based on Australian Bureau of Statistics “National, state and territory population” data, using the raking method. Those who answered the gender identity question as “Non-binary”, “I use a different term”, or “Prefer not to answer” had their responses included with females for the purpose of reporting, due to constraints from weighting data availability. This resulted in an effective sample size of 1179.

The margin of error (95% confidence level) for the national results is  $\pm 3\%$ .

Results are shown only for larger states.

Voting intention questions appeared just after the initial demographic questions, before policy questions. Lower house voting intention was asked first, followed by upper house voting intention. Respondents who answered “Don’t know / Not sure” for voting intention were then asked a leaning question; these leanings are included in voting intention crosstabs. “Coalition” includes separate responses for Liberal and National. “Other” refers to Independent/Other, and minor parties in cases where they were included in the voting intention but represent too small a sample to be reported separately in the crosstabs.



## Detailed results

No preceding questions in the poll are expected to have influenced the results of the questions published here.

**Cash-for-access is defined as a payment to gain access to a politician or other decision maker. For example, making a donation to a political party in exchange for having dinner with a minister.**

**Thinking about [insert the respondent's state or territory of residence] politics specifically, would you say that cash-for-access has become more of a problem or less of a problem over the past five years?**

	<i>Total</i>	<i>Male</i>	<i>Female</i>	<i>NSW</i>	<i>VIC</i>	<i>QLD</i>	<i>WA</i>
<b>Much more of a problem</b>	27%	31%	23%	27%	25%	28%	25%
<b>A bit more of a problem</b>	26%	28%	24%	29%	25%	28%	16%
<b>No change</b>	21%	24%	19%	21%	23%	18%	23%
<b>A bit less of a problem</b>	3%	2%	3%	3%	2%	3%	2%
<b>Much less of a problem</b>	1%	1%	1%	0%	2%	1%	4%
<b>Don't know / Not sure</b>	23%	15%	31%	20%	22%	22%	29%

	<i>Total</i>	<i>Labor</i>	<i>Coalition</i>	<i>Greens</i>	<i>One Nation</i>	<i>Other</i>
<b>Much more of a problem</b>	27%	21%	32%	24%	39%	26%
<b>A bit more of a problem</b>	26%	26%	26%	30%	14%	21%
<b>No change</b>	21%	24%	22%	19%	20%	14%
<b>A bit less of a problem</b>	3%	3%	2%	2%	1%	3%
<b>Much less of a problem</b>	1%	1%	2%	1%	0%	0%
<b>Don't know / Not sure</b>	23%	24%	16%	24%	26%	35%

	<i>Total</i>	<i>18–29</i>	<i>30–39</i>	<i>40–49</i>	<i>50–59</i>	<i>60+</i>
<b>Much more of a problem</b>	27%	26%	23%	21%	26%	34%
<b>A bit more of a problem</b>	26%	28%	32%	21%	22%	24%
<b>No change</b>	21%	21%	24%	25%	22%	18%
<b>A bit less of a problem</b>	3%	3%	3%	2%	2%	2%
<b>Much less of a problem</b>	1%	2%	1%	1%	1%	1%
<b>Don't know / Not sure</b>	23%	20%	19%	29%	27%	22%

To what extent do you agree or disagree with the following statement?

“Cash-for-access should be subject to the same or stricter restrictions as donations to political parties.”

	<i>Total</i>	<i>Male</i>	<i>Female</i>	<i>NSW</i>	<i>VIC</i>	<i>QLD</i>	<i>WA</i>
<b>Strongly agree</b>	46%	52%	41%	44%	46%	49%	47%
<b>Agree</b>	35%	35%	35%	38%	33%	33%	32%
<b>Disagree</b>	4%	4%	3%	4%	5%	3%	3%
<b>Strongly disagree</b>	1%	1%	1%	1%	2%	1%	1%
<b>Don't know / Not sure</b>	14%	8%	21%	13%	14%	14%	17%

	<i>Total</i>	<i>Labor</i>	<i>Coalition</i>	<i>Greens</i>	<i>One Nation</i>	<i>Other</i>
<b>Strongly agree</b>	46%	44%	47%	50%	46%	50%
<b>Agree</b>	35%	40%	36%	32%	25%	19%
<b>Disagree</b>	4%	3%	4%	5%	1%	6%
<b>Strongly disagree</b>	1%	1%	1%	0%	5%	1%
<b>Don't know / Not sure</b>	14%	12%	12%	13%	23%	24%

	<i>Total</i>	<i>18–29</i>	<i>30–39</i>	<i>40–49</i>	<i>50–59</i>	<i>60+</i>
<b>Strongly agree</b>	46%	40%	40%	44%	43%	58%
<b>Agree</b>	35%	37%	36%	33%	36%	32%
<b>Disagree</b>	4%	8%	6%	2%	3%	1%
<b>Strongly disagree</b>	1%	1%	2%	1%	1%	1%
<b>Don't know / Not sure</b>	14%	15%	16%	20%	17%	8%

Respondents were shown the following:

Many types of people and organisations can make payments to political parties and candidates. Thinking about payments from the following groups, which do you think would be most threatening to democracy?

They were then asked to rank the following eight responses in order from one to eight, with one being the most threatening to democracy.

Response options were presented in random order.

	Rank 1	2	3	4	5	6	7	8
<b>Australians who are enrolled to vote</b>	4%	3%	5%	6%	10%	14%	20%	37%
<b>Residents of Australia who are not on the electoral roll (permanent residents, children, etc.)</b>	7%	7%	8%	10%	11%	17%	21%	18%
<b>People who live outside of Australia</b>	16%	14%	15%	12%	12%	12%	10%	10%
<b>For-profit corporations based in Australia</b>	11%	19%	16%	15%	12%	11%	10%	6%
<b>For-profit corporations based outside of Australia</b>	25%	22%	16%	11%	8%	7%	6%	4%
<b>Advocacy groups</b>	7%	10%	12%	16%	18%	15%	13%	9%
<b>Trade unions</b>	12%	11%	12%	15%	15%	15%	11%	10%
<b>Elected politicians, party officials and candidates for election</b>	18%	13%	16%	14%	13%	10%	10%	6%

The following tables show the results for responses when **ranked 1**.

	<i>Total</i>	<i>Male</i>	<i>Female</i>	<i>NSW</i>	<i>VIC</i>	<i>QLD</i>	<i>WA</i>
<b>Australians who are enrolled to vote</b>	4%	4%	5%	4%	5%	3%	5%
<b>Residents of Australia who are not on the electoral roll (permanent residents, children, etc.)</b>	7%	5%	8%	8%	5%	4%	10%
<b>People who live outside of Australia</b>	16%	18%	14%	15%	15%	16%	14%
<b>For-profit corporations based in Australia</b>	11%	13%	9%	9%	12%	11%	12%
<b>For-profit corporations based outside of Australia</b>	25%	25%	25%	24%	26%	28%	20%
<b>Advocacy groups</b>	7%	9%	6%	9%	5%	6%	11%
<b>Trade unions</b>	12%	13%	10%	12%	13%	14%	4%
<b>Elected politicians, party officials and candidates for election</b>	18%	14%	22%	18%	18%	17%	24%

	<i>Total</i>	<i>Labor</i>	<i>Coalition</i>	<i>Greens</i>	<i>One Nation</i>	<i>Other</i>
<b>Australians who are enrolled to vote</b>	4%	4%	3%	6%	9%	4%
<b>Residents of Australia who are not on the electoral roll (permanent residents, children, etc.)</b>	7%	7%	6%	8%	7%	5%
<b>People who live outside of Australia</b>	16%	18%	17%	8%	20%	14%
<b>For-profit corporations based in Australia</b>	11%	14%	7%	17%	3%	10%
<b>For-profit corporations based outside of Australia</b>	25%	27%	21%	31%	20%	28%
<b>Advocacy groups</b>	7%	7%	9%	4%	10%	5%
<b>Trade unions</b>	12%	8%	20%	5%	9%	11%
<b>Elected politicians, party officials and candidates for election</b>	18%	16%	17%	20%	23%	23%

	<i>Total</i>	<i>18–29</i>	<i>30–39</i>	<i>40–49</i>	<i>50–59</i>	<i>60+</i>
<b>Australians who are enrolled to vote</b>	4%	3%	7%	7%	4%	1%
<b>Residents of Australia who are not on the electoral roll (permanent residents, children, etc.)</b>	7%	12%	9%	5%	5%	3%
<b>People who live outside of Australia</b>	16%	11%	17%	15%	17%	19%
<b>For-profit corporations based in Australia</b>	11%	15%	13%	10%	8%	8%
<b>For-profit corporations based outside of Australia</b>	25%	21%	20%	24%	29%	29%
<b>Advocacy groups</b>	7%	10%	7%	7%	5%	8%
<b>Trade unions</b>	12%	6%	9%	11%	10%	18%
<b>Elected politicians, party officials and candidates for election</b>	18%	22%	17%	20%	22%	13%