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Electoral Review Expert Panel  
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To the Panel

Please find attached Climate 200's submission to the independent review of Victoria's electoral and political donations system.

We have made a similar submission to the Electoral Matters Committee's inquiry into the conduct of the 2022 Victorian state election, with the exception of Attachment A on expenditure caps, which was not in our Electoral Matters Committee submission.

Climate 200 would welcome the opportunity to attend a face-to-face consultation to present evidence and answer questions in person.

Kind regards

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# **Submission to the independent review of Victoria's electoral and political donations system**

## **Introduction**

Climate 200 thanks the Panel for the opportunity to provide feedback on Victoria's electoral and political donations system since significant amendments were introduced in 2018. This review is an important opportunity to consider the fairness and effectiveness of the new regime.

Climate 200 is a crowdfunded organisation that exists to help level the electoral playing field so that independent community campaigns — particularly, those committed to science-based climate action and best practice integrity and gender equity policies — can mount competitive election campaigns. Climate 200 provided in-kind support to four independent candidates in the 2022 Victorian election as a third party campaigner.

In robust democracies, the electoral system rests on the principles of fairness, transparency and participation. Ensuring that these principles are upheld is crucial to maintaining public confidence in the integrity of the electoral system and in democracy.

Election finance laws should ensure fairness, increase transparency, and promote participation in the electoral process. Participation includes the ability of candidates standing for election to compete on a level playing field, regardless of their political affiliation or, indeed, independence from political affiliation.

Climate 200 believes that the campaign funding reforms introduced in 2018 have undermined fairness and participation by entrenching the benefits of incumbency, providing special treatment for the major parties, and significantly increasing the difficulty of challengers to run competitive campaigns.

This submission will provide our insights into the substantial head start enjoyed by the major parties in Victorian elections, the challenges faced by independent campaigns, and suggestions for reform to make Victorian elections fairer and more democratic.

## **Reforms that further entrenched incumbency**

Climate 200 believes that the 2018 amendments to the Electoral Act significantly increased the head start already enjoyed by major party candidates and made it considerably more difficult for new entrants to mount competitive campaigns.

Laws that create barriers to newcomers and entrench incumbency run counter to the ideals of representative democracy. A healthy democracy should not prevent quality community-backed independent candidates from mounting competitive campaigns to represent their communities in parliament — yet the current laws do exactly that.

## Natural advantages for major parties and incumbents

At the outset, major party candidates have a range of inherent advantages over independent challengers. Major party candidates have large well-funded, well-oiled, national machines behind them. The parties have well-established and widespread brand recognition, and benefit from voter habit, having enjoyed a high-profile existence for generations.

Major party candidates also benefit from their parties' funding promises made at elections. Whether seen as pork barrelling or just normal electioneering, such promises carry weight with voters.

Incumbent parliamentarians also enjoy many inherent advantages. In the course of performing their role, incumbents naturally receive significant exposure to voters and the media.

Independent challengers and new/small parties must work very hard and invest significantly in advertising to earn the brand recognition and media attention required to come close to competing with the natural advantages enjoyed by parties and incumbent MPs.

## Major party candidates' publicly funded head start

In addition to these natural advantages, the major parties receive very significant publicly funded benefits through their incumbent parliamentarians, which independent challengers do not. Over the four years of the last Victorian election cycle, these publicly funded entitlements collectively delivered at least \$212m to the Labor Party and the Coalition (see appendix):

Public funding by first preference votes	\$30.5m
Administrative funding	\$14.4m
Electorate office and communications budget	\$46.4m
Salaries and allowances	\$120.8m
<b>Total</b>	<b>\$212.1m</b>

### Public funding by first preference votes

The 2018 campaign funding reforms significantly increased the public funding given to candidates who receive at least four per cent of primary votes. The entitlement before the reforms were

introduced was \$1.20 per primary vote after the 2018 election. The entitlement is now \$6.49 per primary vote for lower house candidates and \$3.24 per primary vote for upper house candidates.<sup>1</sup> Those who received public funding for the previous election can choose to receive instalments of public funding in advance for the next election.

Due to the increase in per-vote public funding, Labor’s election return increased from \$3.5m for the 2018 election to \$13.5m for the 2022 election, an increase of over \$10m. The Coalition’s public funding increased by nearly \$8m:

<b>Party</b>	<b>Public funding related to 2018</b>	<b>Public funding related to 2022</b>	<b>Increase over cycle</b>	<b>post 2018 plus 2022 advanced funding</b>
<b>Labor</b>	\$3.5m	\$13.5m	\$10.0m	\$17.0m
<b>Coalition</b>	\$2.7m	\$10.7m	\$8.0m	\$13.5m

The public funding earned by party candidates is centralised into party funds.

It should be noted that independent candidates’ public funding is classified as taxable income, whereas it is not taxable for parties.

Combined with the public funding received following the 2018 election, due to transition arrangements, going into the 2022 election, the Labor Party had received over \$17.0m in public funding, and the Coalition nearly \$13.5m.

As implemented, per-vote public funding is unfair as it skews significantly in the favour of major parties.

In the majority of seats, major parties receive more income from public funding than they spent campaigning in those seats. A party may spend as little as \$10,000 campaigning in an unwinnable electorate, but if they nevertheless receive 35% of upper and lower house votes cast in the seat (approximately 14,525 primary votes for each house)<sup>2</sup>, they’ll receive \$94,267 in public funding from the Legislative Assembly primary votes, and \$47,061 from Legislative Council primary votes, earning a profit of \$131,328. In a typical election, approximately four-fifths of seats are non-targets seats, allowing parties to allocate significant funding to direct at target seats.

Meanwhile, for an independent, their seat *is* the target seat. If an independent spends \$300,000 on a strong campaign and wins 35% of the vote, they’ll receive \$94,267 in public funding and have made a loss of \$205,733. This can only be made up from donations.

Our current public funding system allows parties to harvest millions of dollars in public funding from non-priority electorates (i.e. safe or unwinnable seats) which can be directed to statewide media and priority electorate campaigns.

<sup>1</sup><https://www.vec.vic.gov.au/candidates-and-parties/political-donations/indexation>

<sup>2</sup>The average electorate has approximately 41,500 electors.

Assuming Pareto's Law (the "80/20" rule) applies, and major party campaigns spend around 80 percent of their campaign funds on 20 percent of electorates (i.e. 18 of the 88 lower house electorates) — that is, the battleground marginal electorates — the Coalition could use around \$600,000 of public funding for each priority seat, and Labor around \$750,000.

In contrast, the two incumbent independents at the 2022 election, Ali Cupper and Susanna Sheed, had much less public funding for their advertising. Ali Cupper received \$89,401 in 2018 and 2022 advance payments, and Susanna Sheed received \$116,383 — \$18,528.30 of which she will be liable to repay if she doesn't recontest the next election, because she received fewer votes in 2022 than 2018. From public funding, these independents could have been outspent by a factor of around 7-to-1 by their Coalition challengers. Both MPs lost their seats, and the Victorian parliament now has no independent members.

Independent challengers receive no public funding in advance of an election if they didn't contest the previous election and receive over four percent of votes. And independents who did contest the previous election but do not wish to contest again are not allowed to pass on their public funding to another independent candidate in their electorate. The only funding independent challengers have access to is donations, capped at a maximum of \$4,320 per donor.

	<b>Public funding</b>	<b>80% of public funding</b>	<b>Spread across 20% of electorates (18)</b>	<b>Equivalent number of average donations<sup>3</sup></b>
<b>Labor</b>	\$17.0m	\$13.6m	\$755,666 per electorate	1,328
<b>Coalition</b>	\$13.5	\$10.8m	\$598,095 per electorate	1,051

The Age recently reported that senior Labor sources believe a strong Victorian election seat campaign would cost up to \$500,000.<sup>4</sup> The source is likely just referring to direct election costs, and not the party headquarters' costs required to contest the electorate. Assuming an average donation size of \$569, an independent challenger would need to find 879 donors, just to match the funding the state provides to a major party campaign. The challenger would need to fundraise even more to cover the administration costs of their campaign — which the major parties largely do not have to do, due to the administrative funding they enjoy from the state (detailed below).

While state-provided funding and the nominated entity loophole (detailed below) makes it entirely possible for a party to mount a \$500,000 campaign in an electorate, we contend that it is almost

<sup>3</sup>From information we have received from campaigns we supported, we have calculated that the average donation to independent campaigns Climate 200 supported and to our own Victorian election account was \$569. The median donation was \$50.

<sup>4</sup><https://www.theage.com.au/politics/victoria/pesutto-pins-hopes-on-cost-of-living-crisis-in-warrandyte-by-election-20230619-p5dhqp.html>

impossible for an independent challenger to raise this level of funding under the constraints of the current system.

### **Administrative funding**

Parties and elected independents are entitled to quarterly payments of Administrative Funding that may be used for expenditure on:

- office accommodation
- staff employed
- equipment (e.g. IT systems, vehicles, office stationery, etc.)
- interest charges on loans
- utilities
- travel
- advertising
- staff and costs to manage funding and disclosure obligations (including production of returns)
- costs related to auditing returns and statements in order to comply with funding and disclosure obligations.<sup>5</sup>

Note that this funding is *above and beyond* the Electorate Office and Communications Budget (below) that an MP is entitled to receive, and does not include the electorate office and staff provided for all MPs.

For parties, this funding is centralised and is based on the number of party members elected. In the four years leading up to the 2022 election, Labor received approximately \$7.3m and the Coalition \$7.1m in administrative funding. Independent challengers receive no public funding for these expenses. They rely entirely on donations to pay for them — again, under the \$4,320 per donor cap.

### **Electorate Office and Communications expenses**

Over the last Victorian election cycle, the publicly funded Electorate Office and Communications budget delivered over \$30.5m to Labor members and \$15.9m to Coalition members. There are limits on the use of this budget for overt campaigning, but it can be used for advertisements, mail-outs and office signage, all of which raise the profile of the elected official.

Independent challengers do not receive any public funding for raising their profile, relying entirely on donations — again, under the \$4,320 per donor cap.

### **Salaries and allowances**

Elected parliamentarians also receive publicly funded salaries, electorate allowances (in addition to those mentioned above), motor vehicle allowances and commercial transport allowances.<sup>6</sup> These salaries and allowances amount to a minimum of \$272,000 per annum for each MP, and considerably more for certain office holders and electorates.

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<sup>5</sup><https://www.vec.vic.gov.au/candidates-and-parties/funding/funding-registered-political-parties/rpp-administrative-expenditure-funding>

<sup>6</sup><https://www.vic.gov.au/members-parliament-salaries-allowances>

This equates to nearly \$19m per year for Labor MPs, and \$10.3m for Coalition MPs — adding up to \$120.7m to the major parties over the election cycle.

An independent candidate does not get paid to run for office. To be effective they have to take time off paid work, which few can afford. Their travel costs are not publicly funded. All such costs must be paid for from donations — again, subject to the \$4,320 per donor cap.

In addition, the public pays for electorate officers and parliamentary advisers for MPs, with salaries up to \$100,000.<sup>7</sup> While not permitted to campaign for the MP, incumbent MPs' profiles benefit greatly from the work performed by these staff over the political cycle.

### **Electoral roll access**

Incumbent MPs have access to the electoral roll throughout the political cycle. Independent challengers do not enjoy this benefit. If they wish to run data-driven campaigns matching the incumbents, they must purchase data products equivalent to the roll. These cost approximately \$25,000 for a single state electorate.

## **Publicly funded party candidates vs capped independent candidates**

Victoria's \$4,320 donation cap disproportionately impacts independent challengers.

With a publicly funded head start of over \$212 million per election cycle, the major parties have little need for donations. Donations made up just 1.8% of Labor's total income over the 2019, 2020, 2021 and 2022 financial years, and 4.6% for the Coalition (see appendix).

An independent challenger, on the other hand, starts with no public funding at all, and must secure donations to cover every dollar required for administration, compliance, staff, office costs, data, communications and advertising.<sup>8</sup> With no paid staff or resources to fundraise with, candidates must dedicate much of their efforts to small dollar fundraising while their opponents can focus on winning votes. Unlike the member they challenge, the independent will receive no income while they are campaigning. An independent campaign relies entirely on personal commitment, modest donations and volunteers.

The applicability of the cap to in-kind donations means independent campaigns often have to turn down offers of support from their community. When one of the independent candidates Climate 200 supported was offered free use of an office space from which to run her campaign, she had to turn it down because the lease was worth more than \$4,320 over the course of the campaign. Likewise, the cap greatly constrained the amount of in-kind campaign support Climate 200 could provide to independent candidates in the election.

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<sup>7</sup>*Electorate Officers (Victoria) Single Enterprise Agreement 2021 (Vic)*, sec.30.5, <https://cpsuvic.org/help/article?id=53>

<sup>8</sup>While it is true that if the candidate receives over four percent of the primary vote in their electorate, they will be entitled to public funding, this won't be received until long after the campaign when it was needed, and likely well less than the costs to run their campaign.

Even the rules around **tax deductibility of donations** are skewed in favour of parties. Donations of up to \$1,500 per year to parties are tax deductible year round. Donations to independent candidates, on the other hand, do not become tax deductible until candidate nominations open and they are listed as a candidate, approximately 12 days before the polls open. This significantly disadvantages an independent candidate as some donors will not donate until donations are tax deductible. This decreases the spending capability of an independent at the start of the campaign when funds are most needed.

## Donation caps and the carve outs for the major parties

Climate 200 is particularly concerned about the carve-outs from the donation cap for gifts between a registered political party and its nominated entity, and annual subscriptions, affiliation fees and levies to political parties.<sup>9</sup>

The carve-out for gifts from parties' nominated entities is especially unfair. Only the Labor, Liberal and National parties have a 'nominated entity' — respectively, Labor Services and Holdings, the Cormack Foundation, and Pilliwinks Pty Ltd. The payments from these entities to their associated parties are not subject to Victoria's donation cap nor real-time transparency provisions. In the 2019, 2020, 2021 and 2022 financial years, Labor and the Coalition received \$3.6 million and \$2.9 million respectively from their nominated entities. We will not know how much they gave the parties in the five months before the 2022 state election until almost 12 months after election day.

Entity	2018-2019	2019-2020	2020-2021	2021-2022	Total
<b>Labor Services &amp; Holdings</b>	\$3,123,557	\$223,557	\$223,557	?	<b>\$3,570,671</b>
<b>Cormack Foundation</b>	\$2,520,000	\$60,000	\$272,129	?	<b>\$2,852,129</b>
<b>Pilliwinks Pty Ltd</b>	?	?	?	?	?

The cap also does not apply to annual subscriptions, affiliation fees and levies to political parties. Party membership and union affiliation fees contribute an estimated \$1.5 million a year each to the Victorian Labor and Liberal Parties.<sup>10</sup>

Climate 200 noted with interest in the Panel's discussion paper that there is some debate about the application of the cap in relation to tickets to fundraising events.<sup>11</sup> IBAC has concerns about this creating a possible loophole for parties to receive significant undisclosed amounts of funding, potentially over \$4,320 per guest.<sup>12</sup> The Act should be amended to make clear that revenue received through fundraising event tickets is a gift which is subject to the cap and disclosure requirements.

<sup>9</sup><https://www.vec.vic.gov.au/candidates-and-parties/political-donations>

<sup>10</sup><https://www.theage.com.au/national/victoria/labor-s-campaign-funding-laws-build-100m-wall-to-keep-independents-out-20220908-p5bgim.html>

<sup>11</sup><https://www.vic.gov.au/electoral-review-expert-panel-discussion-paper/key-matters-consideration>

<sup>12</sup><https://www.ibac.vic.gov.au/publications-and-resources/article/corruption-risks-associated-with-donations-and-lobbying>



The major parties also have access to millions of dollars in assets and loans from their subsidiary companies. For example Vapold Pty Ltd, a subsidiary of the Victorian Liberal Party, sold office space to Rolex Australia for \$37.1m in 2018. According to disclosures lodged with the VEC:

- on 1 July 2019, the Victorian Liberal Party received \$3,863,012 as a dividend from Vapold
- on 30 June 2020, the Victorian Liberal Party owed Vapold \$3,451,423.

Climate 200 acknowledges that Victoria's campaign financing reforms were well intentioned to reduce the influence of 'big money' on our democracy. However, Climate 200 has serious concerns that the design of the system has had the unintended consequence of dramatically reducing democratic participation. Under the new system, incumbents are largely publicly funded while challengers' only funding is via a severely constrained donations regime. The effort required by an independent to challenge a seat is orders of magnitude higher than for an incumbent to defend their seat.

Candidates of equal merit and equal appeal to the electorate do not currently have an equal opportunity to participate in Victoria's elections.

The independent campaigns Climate 200 supported in the 2022 election performed well given the challenges they faced. In each case the independent had to run two campaigns, one to fundraise and another to win votes. Their opponents had only one campaign, to defend their votes — a task made much easier from atop the publicly funded wall of incumbency. Had the laws been more equitable, the election result could well have been very different for these campaigns.

## **Levelling the playing field**

Climate 200 recommends the following changes to Victoria's political donation and disclosure laws, to create a more level playing field:

### **Recommendation 1 — Create a new entity type suitable for running independent community campaigns.**

Establish a new entity type within the Electoral Act known as an Independent Community Campaigner that can register (subject to signatures from a reasonable number of electors) to run an independent campaign in a single, specified electorate.

Such entities would:

- be responsible for all aspects of campaign management, including receipt of donations, disclosures, authorisations and annual returns
- receive public funding for the independent candidate (when eligible) and have the ability to utilise that funding to support another independent candidate if the independent does not stand at the next election
- be able to receive memberships and subscriptions, in the same way a party does

- be able to receive tax-deductible donations to the same extent as parties (ie. up to \$1500 per donor in each financial year), and
- receive access to the electronic electoral roll for the specified electorate.

**Recommendation 2 — Limit public funding to electoral expenditure on a seat-by-seat basis.**

Remove the ability of parties to profit from campaigns in non-target electorates by limiting per-vote public funding to the amount actually spent campaigning in each contested electorate.

**Recommendation 3 — Limit the electoral advantage provided by electorate communications budgets.**

- Prohibit the use of communications budget in the six months before an election.
- Require publicly funded communications to be clearly marked as publicly funded.
- Establish an independent process to review communications that are publicly funded to ensure they are not electoral matter, and post copies of all publicly funded communications on a web-accessible transparency register at the same time as the communications are distributed.

**Recommendation 4 — Address the nominated entity advantage.**

- Introduce real-time disclosure obligations for nominated entities which require disclosure of receipts, and contributions and loans to their associated party, within 21 days.
- Limit the contribution from nominated entities to \$2,000,000 per nominated entity, or \$100,000 per contested seat, whichever is lower, over the electoral cycle.
- Allow Independent Community Campaigners to nominate an entity from which they can receive uncapped donations. Allowance would need to be made to permit these new nominated entities to accept donations.
- Unless all three of these amendments are made, the nominated entity exception should be removed.

**Recommendation 5 — Address the public funding and administrative funding advantage.**

Permit Independent Community Campaigners to fundraise outside the cap into an Administrative Account and an Election Funding Account, amounts equal to the funding that a hypothetical, elected independent would have received from the VEC:

- For the Administrative Account: each financial year, up to \$216,210 (indexed), being an amount equal to the 'Administrative expenditure funding for independent elected members' provided to elected independents.<sup>13</sup>

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<sup>13</sup><https://www.vec.vic.gov.au/candidates-and-parties/political-donations/indexation>

- For the Election Funding Account: each electoral cycle, an amount equal to 35% of the number of votes cast at the last election in the electorate multiplied by the ‘Public Funding per first preference vote’ for Legislative Assembly candidates. Based on the 2022 election, this would be \$93,132 in an average seat of 41,500 voters.

Expenditure from the Administrative Account and the Election Funding Account would be constrained in the same manner as analogous accounts held by the parties.

Note that this still leaves parties who run Legislative Council candidates with a significant advantage of \$3.16 per primary vote cast for that house, and does not account for the myriad of other benefits of incumbency.

### **Recommendation 6 — Remove the Legislative Council funding advantage.**

Remove public funding for first preference votes for the Legislative Council for parties contesting at least 20 percent of the seats in the Legislative Assembly. Alternatively, increase the Election Funding fundraising allowance for Independent Community Campaigners in Recommendation 5.

## **Improving donations disclosure**

Climate 200 found the VEC’s real-time disclosure portal to be reasonably usable, with the exception of the potential to allow duplicate disclosures and the great difficulty of resolving such occurrences.

The portal could be improved by:

- identifying instances, in real time, where a donation has already been disclosed by a donor or recipient, and alerting the discloser before allowing them to create a duplicate disclosure; and
- if a duplicate is discovered, allowing either the donor or recipient to mark one of the donations as a duplicate, linking it to the other.

Alternatively, little purpose is served by requiring both parties to register a donation. Shifting the onus of donation recording to the recipient would dramatically reduce the opportunity for error and simplify the process of making a donation for thousands of participants.

## **Conclusion**

Victoria’s campaign financing reforms may have been intended to improve the integrity of Victoria’s elections, and *may* have levelled the playing field between the major parties, however the design of the scheme has made it even more difficult for communities to challenge the power of the major parties and hold them to account.

A well-functioning democracy should welcome a diversity of representatives into parliament, rather than limiting representation to only the major parties.

The state provides more than \$212m in benefits to the major parties, and our electoral laws provide them with many other advantages over challengers. Challengers receive nothing before the election and are reliant on a severely limited funding source.

The head start and campaign-funding carve outs enjoyed by the major parties make it relatively straightforward for them to finance a campaign to defend a seat. Meanwhile the current rules make it nearly impossible for an independent challenger to mount a competitive campaign. This pushes our democracy towards a duopoly, and unfairly deprives the community of representation.

We have provided a number of recommendations to reduce the funding disadvantages faced by independents, especially challengers.

We have also explained below in Attachment A the potential for expenditure caps to significantly advantage major parties over challengers if they aren't designed well, and some suggestions to help avoid this.

A healthy democracy should strive for a diversity of voices in parliament and should remove measures providing systemic advantage to incumbents. We urge the Panel to give serious consideration to our recommendations.

## ATTACHMENT A: Expenditure caps

Our analysis of Victoria’s campaign funding laws clearly shows that the details of any changes to electoral funding can have profound impacts.

When making any changes, extreme care must be exercised to ensure one set of political actors are not advantaged over another. This applies very much to expenditure caps. If the details aren’t right, expenditure caps could easily tilt the electoral playing field even further against independents, especially challengers.

If expenditure caps were to be introduced in Victoria, in addition to all six of our recommendations regarding campaign funding, the following details are critical:

### **Recommendation A1: Expenditure caps must be applied to parties on a seat-by-seat basis.**

If caps are not applied on a seat-by-seat basis, parties can focus the majority of their spending on priority seats, significantly outspending an independent challenger.

NSW’s expenditure cap is an example of bad design. In NSW, a party’s expenditure cap is determined by the number of seats it contests. For the March 2023 NSW election, a party that contested all 93 lower house seats had a statewide spending cap of \$12.3m, being 93 x \$132,600 per seat.<sup>14</sup> A party candidate could also spend up to \$132,600 in addition to their party’s expenditure in the seat.

In the example below, a party is running hard in five priority (“category A”) seats. The party candidate contributes \$132,600 from their campaign account, and benefits from just under \$1,000,000 of party expenditure in each seat. These priority campaigns will also enjoy the benefit of a \$4 million statewide advertising campaign.

In the example, the party’s candidates in 15 second tier (“category B”) campaigns run \$250,000 campaigns while candidates in unlosable and unwinnable seats run \$30,000 campaigns. Category B and C campaigns also enjoy the benefits of the party’s \$4 million statewide advertising campaign.

Meanwhile, an independent is constrained to running a \$198,700 campaign with a \$20,000 office allowance.

In this example, the party and all of its candidates have stayed within their cap, yet an independent would be outspent in any of 20 seats — by a factor of five in some — and the party has the additional benefits of:

- statewide advertising campaign
- access to the electoral roll
- support from a state (and possibly federal) headquarters
- significant economies of scale with content production, strategy, staff and media buying.

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<sup>14</sup> A party may not spend more than \$66,400 identifying the candidate or seat name in any electorate but is free to advertise the party, its leadership team, policies etc as well as negative ads that attack opponents in general terms.

Party				
Category	A	B	C	Total
Seats	5	15	73	93
<b>Party expenditure</b>				
- statewide				\$4,000,000
- in seat	\$967,400	\$150,000	\$10,000	\$7,817,000
total				\$11,817,000
<b>Candidate expenditure</b>	\$132,600	\$100,000	\$20,000	\$3,623,000
<b>Expenditure in seat</b>	<b>\$1,100,000</b>	<b>\$250,000</b>	<b>\$30,000</b>	<b>\$15,440,000</b>
Independent Challenger				
	Independent			Total
Seats	1			1
<b>Candidate expenditure</b>				
- office allowance	\$20,000			
- rest of campaign	\$200,000			
total	\$220,000			\$220,000
<b>Expenditure in seat</b>	<b>\$220,000</b>			<b>\$220,000</b>
Independent outspent ratio		5.0	:1	

The party will also have received approximately \$10m via public funding before the election, meaning the majority of the campaign is publicly funded. Contrast this with an independent challenger receiving 36% of the vote who would receive almost \$83,000 *after the election* — the public funding comes too late and covers little more than a third of the campaign costs.

In a [recent article](#), senior Labor sources told The Age that a “strong campaign” for the upcoming Warrandyte by-election would cost “up to \$500,000”, and that’s not including the value of the party’s brand and headquarters.

Under NSW’s badly designed expenditure caps, an independent is effectively prevented from running a “strong campaign”, while the major parties are fully able to do so.

**Recommendation A2: Parties fielding candidates in the lower house should not be allowed additional expenditure for upper house candidates.**

In South Australia, expenditure is capped at \$83,000 per lower house seat, but parties can spend an additional \$557,565 if they are contesting the upper house. This additional expenditure is not available to candidates running in a single district, like independents. It would be possible for this additional upper house expenditure to be focused overwhelmingly in tightly contested lower house districts, giving parties significant advantages. It would also be possible for candidates or smaller parties focussed on a single seat or small number of seats to field an upper house candidate for the

primary purpose of attracting a significantly higher expenditure cap that they would otherwise receive.

**Recommendation A3: Only communications expenditure should be capped.**

A candidate running for a major party benefits from the party's profile, existing brand collateral, and support from state and federal headquarters. New parties and independents (especially challengers) start with nothing and must replicate most of the functions and campaign assets of the parties, but without the benefit of economies of scale. Because they don't have access to the electoral roll and have much higher fundraising requirements, they face significant costs a major party candidate never considers.

Again NSW provides us with a practical example of unfairness. Liberal Party returns for the 2019 NSW state election do not account for many of the services provided by party headquarters, leaving much of the budget under the expenditure cap for communications. A new independent can easily spend half of their expenditure cap just on engaging a campaign manager, a fundraiser and the services of a graphic designer.

To help level the playing field, we strongly advocate for any expenditure cap to be limited to communications only — e.g. mailouts, digital/newspaper/radio/TV advertising and billboards — and exclude corflute signs, t-shirts, merchandise and associated costs of design/production. In conjunction with Recommendation 5 of our submission, this means expenditure from an Independent Community Campaigner's Administrative Account would not be capped, only expenditure on "Communications" from their Election Funding Account.

**Recommendation A4: Statewide expenditure by parties should be apportioned and count towards the party's spending cap in each seat.**

In NSW, only messages that explicitly name the electorate or local candidate count towards the electorate spending cap. The electorate spending cap does not limit the amount that a party can inundate an electorate with messaging that promotes the party and its leadership, messages that increase the salience of key issues or that attack opponents in general terms.

**Recommendation A5: If incumbents use their communications budget in the six months before an election, any such expenditure should be counted towards their expenditure cap.**

**Recommendation A6: Independent challengers should have a higher communications expenditure cap, recognising their higher communications costs.**

An independent challenger is invariably less well known than the incumbent and/or the major parties. To gain a similar level of name recognition and awareness of their credentials and politics, an independent challenger has a larger hill to climb. This, coupled with lack of economies of scale, mean that an independent challenger faces higher communications costs to match an incumbent or major party candidate.

**Recommendation A7: Associated entities, nominated entities and third party campaigners should be subject to seat-by-seat communications expenditure caps.**

This is necessary to prevent circumvention of the cap.

**Recommendation A8: Communications expenditure caps should apply for the six month period leading up to each election.**

The cap needs to apply well enough in advance of an election for it to be effective in deterring the ‘arms race’ that proponents of expenditure caps are concerned about.

The IBAC Special Report noted that “spending limits may favour incumbents over challengers”<sup>15</sup>, and “care must be taken to ensure expenditure caps do not unfairly discriminate against challengers, independents or minor parties”. Climate 200 strongly agrees, and urges the Panel to consider our recommendations when exploring this reform.

Implementing equitable expenditure caps is difficult. While there may be merit in expenditure caps, poor design would make Victoria’s elections even less equitable and undermine the integrity of our democracy.

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<sup>15</sup> OECD 2016, Financing democracy: Funding of political parties and election campaigns and the risk of policy capture, p 54



# APPENDIX: data analysis

1. 2018 Public Funding					
					\$1.20 per vote
	Votes				
2018	LA	LC	Total		FY2019
ALP	1,506,460	1,405,475	2,911,935	ALP	\$3,494,322
Liberal	1,069,287	1,013,666	2,082,953	Liberal	\$2,499,544
Nationals	167,625	41,113	208,738	Nationals	\$250,486
Coalition	1,236,912	1,054,779	2,291,691	Coalition	\$2,750,029
<a href="https://www.vec.vic.gov.au/results/state-election-results/2018-state-election">https://www.vec.vic.gov.au/results/state-election-results/2018-state-election</a>					
				Indi challenger	\$0
				<b>Total Labor &amp; Coalition</b>	<b>\$6,244,351</b>

2. Public Funding (In advance)									
					2019	28 Apr 2020	29 Apr 2021	29 Apr 2022	
				Instalment	40%	20%	20%	20%	
				Indexed price LA	6.00	6.12	6.25	6.33	
				Indexed price LC	3.00	3.06	3.12	3.16	
<a href="https://www.vec.vic.gov.au/candidates-and-parties/political-donations/index">https://www.vec.vic.gov.au/candidates-and-parties/political-donations/index</a>									
					early 2019	30 Apr 2020	30 Apr 2021	30 Apr 2022	Total
				ALP	\$5,281,153	\$2,693,388	\$2,749,213	\$2,784,420	\$13,508,174
				Liberal	\$3,782,740	\$1,929,197	\$1,969,137	\$1,994,355	\$9,675,428
				Nationals	\$403,267	\$205,666	\$210,034	\$212,723	\$1,031,690
				Coalition	\$4,186,007	\$2,134,863	\$2,179,171	\$2,207,077	\$10,707,118
				Indi challenger	\$0	\$0	\$0	\$0	\$0
				<b>Total Labor &amp; Coalition</b>					<b>\$24,215,292</b>

Source: <https://www.vec.vic.gov.au/candidates-and-parties/funding/funding-register>

3. Administrative funding									
					2018-2019	2019-2020	2020-2021	2021-2022	
				Member 1	\$200,000	\$204,100	\$208,200	\$210,870	
				Member 2	\$70,000	\$71,430	\$72,860	\$73,790	
				Members 3-45	\$35,000	\$35,720	\$36,440	\$36,910	
	Seats Won								
Party	LA	LC	Total		2018-2019	2019-2020	2020-2021	2021-2022	Total
ALP	55	18	73	ALP	\$1,775,000	\$1,811,490	\$1,847,980	\$1,871,790	\$7,306,260
Liberal	21	10	31	Liberal	\$1,285,000	\$1,311,410	\$1,337,820	\$1,355,050	\$5,289,280
Nationals	6	1	7	Nationals	\$445,000	\$454,130	\$463,260	\$469,210	\$1,831,600
<a href="https://www.vec.vic.gov.au/results/state-election-results/2018-state-election">https://www.vec.vic.gov.au/results/state-election-results/2018-state-election</a>									
				Coalition	\$1,730,000	\$1,765,540	\$1,801,080	\$1,824,260	\$7,120,880
				Indi challenger	\$0	\$0	\$0	\$0	\$0
				<b>Total Labor &amp; Coalition</b>					<b>\$14,427,140</b>



## Annual returns FY2019–2022

<b>Labor</b>	<b>2018 - 2019</b>	<b>2019 - 2020</b>	<b>2020 - 2021</b>	<b>2021 - 2022</b>	<b>Total</b>
Total_income	\$16,042,517	\$8,663,692	\$9,148,091	\$10,635,319	\$44,489,619
Total_disclosed	\$18,850	\$31,313	\$29,735	\$430,886	\$510,784
Total_undisclosed	\$57,184	\$31,284	\$37,045	\$167,352	\$292,865
Number_undisclosed	1,237	152	208	1,056	2,653
Total_nonpolitical	\$0	\$8,601,095	\$9,081,311	\$10,037,081	\$27,719,488
Total_expend	\$14,943,868	\$4,383,435	\$5,368,781	\$7,445,508	\$32,141,592
Total_debts	\$129,103	\$156,120	\$356,618	\$527,112	
<b>Total Political Donations</b>	<b>\$76,034</b>	<b>\$62,597</b>	<b>\$66,780</b>	<b>\$598,238</b>	<b>\$803,649</b>
PolDonations/Income	0.5%	0.7%	0.7%	5.6%	1.8%
<b>Liberal</b>	<b>2018 - 2019</b>	<b>2019 - 2020</b>	<b>2020 - 2021</b>	<b>2021 - 2022</b>	<b>Total</b>
Total_income	\$15,240,440	\$13,443,793	\$10,256,046	\$19,797,268	\$58,737,547
Total_disclosed	\$2,500	\$22,044	\$38,695	\$348,042	\$411,281
Total_undisclosed	\$130,753	\$257,238	\$451,301	\$1,590,763	\$2,430,055
Number_undisclosed	1,730	1,054	569	2,104	5,457
Total_nonpolitical	\$10,837,518	\$13,164,511	\$9,766,050	\$17,858,463	\$51,626,542
Total_expend	\$19,654,189	\$11,637,740	\$6,737,101	\$11,059,802	\$49,088,832
Total_debts	\$9,403,639	\$4,374,539	\$4,652,583	\$120,388	
<b>Total Political Donations</b>	<b>\$133,253</b>	<b>\$279,282</b>	<b>\$489,996</b>	<b>\$1,938,805</b>	<b>\$2,841,336</b>
PolDonations/Income	0.9%	2.1%	4.8%	9.8%	4.8%
<b>Nationals</b>	<b>2018 - 2019</b>	<b>2019 - 2020</b>	<b>2020 - 2021</b>	<b>2021 - 2022</b>	<b>Total</b>
Total_income	\$2,248,866	\$1,740,844	\$1,715,631	\$1,416,982	\$7,122,324
Total_disclosed	\$12,900	\$0	\$1,205	\$21,435	\$35,540
Total_undisclosed	\$11,121	\$22,599	\$40,914	\$61,759	\$136,393
Number_undisclosed	100	115	112	199	526
Total_nonpolitical	\$1,890,227	\$1,662,475	\$1,673,512	\$1,333,788	\$6,560,002
Total_expend	\$1,974,257	\$1,580,252	\$1,499,042	\$2,178,414	\$7,231,965
Total_debts	\$522,038	\$702,374	\$1,117,648	\$1,282,496	
<b>Total Political Donations</b>	<b>\$24,021</b>	<b>\$22,599</b>	<b>\$42,119</b>	<b>\$83,194</b>	<b>\$171,933</b>
PolDonations/Income	1.1%	1.3%	2.5%	5.9%	2.4%
<b>Coalition</b>	<b>2018 - 2019</b>	<b>2019 - 2020</b>	<b>2020 - 2021</b>	<b>2021 - 2022</b>	<b>Total</b>
Total_income	\$17,489,306	\$15,184,637	\$11,971,677	\$21,214,250	\$65,859,871
Total_disclosed	\$15,400	\$22,044	\$39,900	\$369,477	\$446,821
Total_undisclosed	\$141,874	\$279,837	\$492,215	\$1,652,522	\$2,566,448
Number_undisclosed	1,830	1,169	681	2,303	5,983
Total_nonpolitical	\$12,727,745	\$14,826,986	\$11,439,562	\$19,192,251	\$58,186,544
Total_expend	\$21,628,446	\$13,217,992	\$8,236,143	\$13,238,216	\$56,320,797
Total_debts	\$9,925,677	\$5,076,913	\$5,770,231	\$1,402,884	0
<b>Total Political Donations</b>	<b>\$157,274</b>	<b>\$301,881</b>	<b>\$532,115</b>	<b>\$2,021,999</b>	<b>\$3,013,269</b>
PolDonations/Income	0.9%	2.0%	4.4%	9.5%	4.6%