# Submission Cover Sheet

## Inquiry into the operation of the 2024 ACT Election and Electoral Act 1992

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# Liberal Party of Australia – ACT Division submission to the Inquiry into the operation of the 2024 ACT Election and the Electoral Act 1992

The Liberal Party of Australia – ACT Division welcomes the opportunity to provide this submission to the Inquiry into the Operation of the 2024 ACT Election and the Electoral Act 1992. This submission reflects our commitment to a fair, transparent, and efficient electoral system that supports public confidence, democratic participation, and effective governance.

Our submission highlights several areas for improvement based on the experiences and lessons from the 2024 ACT Election. We focus on ensuring that regulatory requirements remain proportionate, transparent, and practical for all political participants while preserving the independence of MLAs and their ability to perform their parliamentary duties.

We welcome the opportunity to provide further information to the Inquiry and appear before the Inquiry to answer any questions or provide further information the Committee may request.

29 September 2025

# Executive Summary

This submission makes the following recommendations:

**1. Financial Compliance and Transparency**

- Amend the seven-day real-time reporting requirement outside the election period to monthly reporting, ensuring compliance can be managed effectively without compromising transparency.

**2. MLAs as Party Entities**

- Simplify gift reporting by excluding gifts received by MLAs in the course of their parliamentary duties, limiting disclosure to electoral gifts intended for campaigning.

- Review the current four-fold reporting requirement for gifts to MLAs, which imposes an excessive administrative burden without enhancing transparency.

**3. Definition of Electoral Material and Parliamentary Business**

- Review the definition of “electoral material” to ensure that legitimate parliamentary business—particularly one-on-one communications with voters that include policy positions agreed to by the parliamentary party—does not count towards the expenditure cap.

**4. Public Election Funding**

- Allow partial payments of public election funding in advance of election day to reduce reliance on debt and support continuous voter engagement.

- Review the rate of public funding to ensure it is better aligned with the expenditure cap, enhancing fairness and competitiveness.

**5. Authorisation and Regulation of Electoral Matters**

- Expand the exceptions under s294 to cover all articles of clothing, ensuring consistent interpretation of authorisation requirements.

- Review restrictions on campaign activities outside polling places by considering how other jurisdictions restrict campaigning at polling places.

**6. Other Matters**

- Require Treasury to provide a conflict statement when preparing costings where they have previously costed the proposal or a similar proposal to ensure independence in the process.

# Financial Compliance and Transparency

There are several areas in relation to financial compliance and transparency that should be improved to increase efficiency and reduce administrative burdens.

Realtime reporting

The real-time reporting of gifts is an important measure to ensure public confidence in the electoral system. The introduction of seven-day reporting of gifts on 1 July 2024 ensured that all gifts in the lead up to the election were mostly disclosed prior to election day, giving voters a clear picture of how parties were funding their campaigns.

However, the seven-day reporting deadline outside of the election period creates resourcing issues that make it difficult for political parties to meet their obligations as employers and to support employee wellbeing in line with best practices relating to workplace health and safety — providing adequate and unbroken leave and the ability to disconnect during periods of leave.

For example, over the period 25 December to 1 January, eight days elapse. This means that a gift made on 24 December must be disclosed by 31 December, requiring an employee to monitor bank accounts and financial reporting system throughout this during the traditional summer office shutdown period. Furthermore, with employees being entitled to four weeks of annual leave under the National Employment Standards, it is unlikely that any employee responsible for managing compliance would be able to take unbroken periods of leave during the year of more than five or at most six days.

Given that political parties often have only one employee managing these compliance requirements, the seven-day reporting requirement imposes an undue burden on reporting agents without any significant increase in transparency. We recommend that the Committee consider different reporting timelines during election and non-election periods. The Act already contemplates a period during which an expenditure cap is in force during an election year. It would be sensible to enforce a seven-day reporting requirement during this period. Outside this period, we recommend returning to monthly reporting of gifts, as was the case prior to 1 July 2024. This approach would maintain transparency while ensuring the regulatory burden is commensurate to the public benefit.

MLAs as Party Entities

Currently, the treatment of MLAs as Party Entities under the Act means that gifts-in-kind to an MLA must be reported three times if they reach the relevant threshold amounts.

This includes the Party reporting these gifts through real-time disclosures within seven days of receipt. Furthermore, each MLA must report these gifts in their Annual Return to Elections ACT as well as to the Legislative Assembly.

The Assembly's rules and those under the Act differ as to what gifts need to be reported within the respective frameworks. This leads to confusion, as some gifts need to be reported under one regime, while not under the other, complicating compliance for all.

Reporting agents also lack authority under the Act to compel MLAs to provide information. There is no mechanism by which a Reporting Agent to direct an MLA or their staff to provide information. While we do not suggest that such a power should exist, we highlight that this reinforces the need for a clear separation of powers between MLAs, their staff, and the Assembly, and political parties and their reporting agents. Furthermore, the Act currently does not allow a Reporting Agent for a political party to refuse to be the Reporting Agent for an MLA who is a member of that Party due to the definition of a Party Entity.

We recommend streamlining the reporting process to reduce unnecessary duplication.

These issues, especially the need for multiple reporting of gifts to MLAs is excessive and does not improve transparency. The inclusion of gifts to MLAs that relate to their parliamentary business is not the same as gifts that relate to political campaigning, which is the intent of the reporting requirements under the Act. Gifts to MLAs that must be reported under the Act should be limited to gifts of electoral material or money as attendance at a community function should not be conflated with support of a political party.

We recommend specifically excluding gifts that relate to an MLA's parliamentary duties, where they are not gifts of money or electoral material, from reporting requirements under the Act. This would ensure that only gifts that can be used for campaigning are disclosable under the Act and avoids unnecessary duplication of reporting of gifts relating to parliamentary duties. It preserves transparency for electoral purposes while respecting the independence of MLAs and the Assembly.

# Public Election Funding

Two key aspects of public election funding merit review: the timing of payments and the amount of funding relative to the expenditure cap.

Payment of Public Election Funding

Currently, public election funding is paid after the declaration of results. However, all expenditure is incurred prior to election day. This creates timing issues for payments and reliance on debt and trade credit to pay for campaigns.

We recommend introducing a system that allows for at least partial pre-payment of public election funding. This would ease financial burdens on parties, enabling them to focus on effective voter engagement and democratic debate. Victoria’s model is a useful example, with prepayments based on previous election results spread over the parliamentary term**.** 40% of the funding is paid in the first year of the term, with 20% being paid in each of the second, third, and fourth years of the term. Further, the payment in the first year of the term is used to balance public funding from the previous election by either reducing or increasing the amount that is paid by the difference in funding achieved at the election.

This ensures that political parties to effectively engage with the community throughout the electoral cycle and helps keep voters informed of what is happening in the Assembly. Furthermore, it ensures that there is a strong contest of ideas and political debate throughout the term of an Assembly, not limiting it to the final months of the campaign when private funding or loans have been secured.

Amount of Public Election Funding

Additionally, the current expenditure cap significantly exceeds the amount of public funding received by political parties. We recommend tying public election funding more closely to the expenditure cap, similar to the way nomination fees are refunded to candidates who reach 4% of the primary vote.

Our suggested formula is: Maximum possible expenditure cap when contesting all 25 seats ÷ 25% of the Total Number of Formal Votes Cast. For example using the 2024 ACT Election:
$1,253,375 ÷ (274,023 x 25%) = $18.2959 per vote

This approach would ensure a stronger link between expenditure caps and public funding, promoting fairness and competitiveness.

Fundraising Limits

Consideration should be given to how other jurisdictions restrict donations for funding election campaigns. Two frameworks that warrant consideration are the Victorian donation cap of $4,970 (indexed) over the course of every four year term and the outright ban on all donations in South Australia for state elections.

If the amount of public funding were to be increased as suggested above, restricting donations would warrant further consideration. Historically, the ACT government has increasingly restricted gifts to political parties and introduced expenditure caps. Beyond banning foreign donations and gifts from property developers, there is a further restricting factor in requiring disclosure of gifts above $1,000 per annum.

Adopting a model similar to South Australia in the ACT would not require significant changes to the way public funding and disclosure is currently implemented and regulated in the ACT. Currently, public funding is provided to political parties and candidates based on votes received. There are expenditure caps on campaigns. Third Parties are also captured by reporting obligations. These measures are common to both the ACT and South Australia. The only difference is that in South Australia there is a ban on all donations, while in the ACT all gifts about $1000 must be disclosed and certain donors are prohibited. It must be noted that any restriction to donations needs to ensure that any expenditure caps are aligned to public funding received by political parties and candidates to ensure fair and free elections in the ACT.

The SA law includes safeguards for smaller players: first-time candidates may receive up to $5,000 in donations and an advance of $2,500 for campaign costs. This evens the playing field for candidates – especially when combining this with spending caps on political parties – and public funding equal to voter support. Moreover, every voter influences how much every candidate gets in funding – it creates the ultimate democratic fairness in a one vote, one value system by extending it to election funding and expenditure.

Another model the Committee should consider is the donations caps as implemented in Victoria. Victoria restricts the total amount a person can give to a political party to $4,970 (indexed) over the course of every four year parliamentary term. This limits the amount that political parties and third parties can receive and expend on political campaigns. It ensures that “big money” cannot buy elections. This would be a natural next step in the evolution of the restrictions in the ACT on political donations.

Furthermore, if public funding were to equate to the expenditure cap where a political party achieves a threshold primary vote (e.g. 25% of all formal votes cast as suggested above), it is also reasonable to consider a total ban on gifts to political parties for the purposes of election campaigns. While there are still questions about the constitutionality of such restrictions in South Australia, it merits serious review to ensure public trust in our democratic institutions and to ensure that all political actors and candidates have a fair level playing field in relation their expenditure on campaigns.

# Authorisation and regulation of electoral matters

Definition of Electoral Material and Parliamentary Business

We recommend that the Committee review the definition of "electoral material" under the Act. Materials produced by an MLA in the course of their parliamentary business should not be captured in the calculation of the expenditure cap. Parliamentary business is fundamental to an MLA’s role, enabling them to represent constituents, consult with the community, and communicate policy positions agreed to by the parliamentary party. It is essential that MLAs can include these policy positions in materials distributed to constituents, especially in one-on-one communications. Including legitimate parliamentary communications in the expenditure cap calculation risks restricting MLAs from fulfilling their representative duties and limits voters’ access to important information about their elected representatives.

Authorisation on clothing

Currently, the Act requires authorisations to be placed on electoral material unless specifically excepted under s294. We recommend expanding s294 to include all articles of clothing, ensuring consistent interpretation and compliance. Specifically, a T-shirt is specifically excepted, whereas no other article of clothing is. However, in practice, this is interpreted as any article of clothing.

# Restrictions on campaigning activities outside polling places

We recommend consideration of restrictions on campaign activities outside polling places in other jurisdictions.

While the 100m exclusion zones aims to reduce the number of signs and material that are displayed outside polling places, it has simply shifted campaign activities to the edge of the zone, 100m from the polling place entrance. We propose consideration of outright bans on campaigning on election day in line with what occurs in Tasmania — the only other Hare Clarke jurisdiction. This would reduce the amount of waste and decrease in amenity for residents that comes from the clutter of election material, including signs, volunteers with pamphlets, and other election paraphernalia, being displayed in proximity to polling places.

While the original intent of the 100m exclusion zone was to reduce the amount of waste and visual pollution, this has not transpired. Simply, it has moved further away from the entrance to the polling place, into areas that are probably less equipped to safely handle the number of volunteers and material blocking public thoroughfares.

## Other Matters – Costings

While this does not relate to the Electoral Act 1991, there should be consideration of changes to the Election Commitments Costing Act 2012 to require Treasury to declare conflicts of interest when preparing independent costings of election policies.

Currently, it is unclear whether Treasury has previously considered similar policies or costed them. There is a clear advantage for incumbent governments that have access to Treasury throughout the term to prepare and cost their policies. With this in mind, Treasury should be required to disclose whether it has previously considered or costed a policy in the current term of the Assembly. In other jurisdictions, pre-election costings are conducted independent of Treasury. While this may not be feasible in the ACT, given the size of the jurisdiction, having Treasury declare conflicts would increase confidence in the pre-election costing process and ensure that Treasury can be held in the high trust by voters it deserves in considering their costings.

# Conclusion

In preparing this submission, the Liberal Party of Australia – ACT Division has been guided by three core principles: transparency, proportionality, and respect for the independence of democratic institutions.

We believe the electoral system should continue to foster public confidence through transparency, while ensuring that compliance obligations are fair, practical, and commensurate with the public benefit achieved. Above all, electoral laws must support MLAs in fulfilling their representative duties without compromising the separation between parliamentary business and political campaigning.

We commend the Committee for its ongoing commitment to these principles and thank it for the opportunity to contribute to this important inquiry. We are ready to assist the Committee's work and provide further information as required.