VICTORIAN ELECTORAL COMMISSION

RESPONSE TO ELECTORAL REVIEW EXPERT PANEL REPORT (NOVEMBER 2023)

Introduction

The Victorian Electoral Commission (**VEC**) welcomes the Electoral Review Expert Panel (**Panel**) Report on Victoria's Laws on Political Finance, and Electronic Assisted Voting (**Report**).[1] The Report focused on Part 12 of the *Electoral Act 2002* (Vic) (**Electoral Act**), which sets out Victoria's political funding and donation disclosure and reporting laws. Also considered by the Panel and included in the Report were electronic assisted voting in the Electoral Act and possible changes to the political finance and donation disclosures laws in place for local government elections in Victoria.

The VEC made a detailed submission to the Panel on 29 June 2023. The VEC's submission contained recommendations on how the Electoral Act should be amended to improve its administration and consequently compliance by applying the core principles outlined below. The Panel considered the VEC's submission alongside other submissions from academic, civic and political groups. To view a copy of the VEC's submission, visit the VEC website at vec.vic.gov.au/submissions.

This document outlines the VEC's response to the Panel's recommendations. In summary, the VEC supports the majority of the Panel's recommendations and looks forward to working constructively with the State Government to implement these recommendations. This document also provides the VEC's detailed response for matters where the VEC's positions do not align with the Panel's findings. It also reiterates certain recommendations the VEC made in its submission that the Report does not resolve. The implementation of the Panel's recommendations is an appropriate opportunity for the VEC's outstanding recommendations to be considered.

Key principles

The VEC's focus for any future reform for Victoria's political funding and donation disclosure and reporting laws is to ensure **consistency**, **equity, simplicity** and **transparency** for all categories of reporting entities, donors and recipients. The commentary in this response document considers the Panel's findings against each of these high-level principles.

When implementing the Panel's recommendations, the VEC recommends that Government ensures:

- **residual obligations** of entities are clarified[2]

[1] The Electoral Review Expert Panel Report was tabled in both Houses of the Parliament of Victoria on 5 March 2024. It can be accessed online at https://www.parliament.vic.gov.au/tabled-documents-database

[2] See recommendations 40, 41 and 42 of the VEC's submission.

- there is **clear authority** for the VEC to recover funds from entities no longer entitled to those funds[3]
- **reporting timeframes** are consistent[4]
- appropriate **enforcement tools** are available to the VEC, as is the ability for the VEC to perform its own **audits of entities**[5]
- **electronic assisted voting** is available to all those Victorians who need it[6]
- the **VEC is funded** to implement the reforms and properly administer and regulate the law.[7]

Electronic assisted voting

The Electoral Act provides for the delivery of two separate services, being electronic assisted voting and electronic voting. Electronic voting allows for voting to be conducted through a computer program and for ballot papers to be stored electronically. This is different to electronic assisted voting, which is operated through the VEC's telephone assisted voting (**TAV**) service and is conducted over the phone and, just like all other electors, records each eligible elector's vote on a paper ballot paper. Currently, the VEC only delivers TAV and not electronic voting.

The VEC supports the Panel's recommendations to expand TAV eligibility to electors in the Australian Antarctic Territory and to reduce the administrative burden for offering TAV to electors affected by emergencies. The VEC also notes the concerns expressed in the Report regarding the further expansion of electronic assisted voting. The VEC does not share these concerns and reiterates that TAV is secure, simple, and it provides a suitably accessible voting pathway for those Victorians eligible to use the service. The VEC continues to advocate for further expanding access to TAV as its benefits of inclusivity, electoral participation and equity outweigh any risks associated with using it. Importantly, electors using the TAV service do not vote on the internet. Compared to electronic or online voting technologies in use in the world today, TAV's cybersecurity and system failure risks are greatly reduced.

Use of specific terms

The VEC's response adopts different uses of certain terms compared to the Report. The VEC notes that the Report uses the term 'Donation Recipient' in areas where it may be inaccurate. The Report uses the term 'Donation Recipient' when referring to all kinds of entities regardless of whether they receive political donations. In this response, the VEC has pointed out each instance when the term 'Donation Recipient' is not the appropriate term.

[3] See recommendations 17, 22, 40, 41 and 42 of the VEC's submission.
[4] See recommendation 49 of the VEC's submission.
[5] See recommendations 4, 16, 25, 32, 36, 43, 44, 46 and 58 the VEC's submission.
[6] See recommendations 59 and 60 of the VEC's submission.
[7] See the VEC's response to of the Panel's recommendations 3.2, 3.13, 4.2, 4.3, 4.4, 4.12, 7.1, 7.3, 8.6 and 9.3.

In addition, the Report uses the term 'independent candidate' to refer to candidates who are not endorsed by a registered political party (**RPP**). This is not a distinction which is made throughout Part 12 of the Electoral Act, though there are different outcomes depending on whether a candidate is endorsed by an RPP at an election and if an elected member is a member of an RPP. The VEC recommends that updates to Part 12 of the Electoral Act should more clearly and consistently adopt the terms 'endorsed candidate', 'endorsed member', 'non-endorsed candidate' and 'non-endorsed member'. A clarifying provision may be required to reflect that a candidate may become an elected member, but should still be treated as the same person for the purposes of their funding and disclosure obligations and entitlements.

In various places, this document responds to a Panel recommendation by supporting it in part or in principle. In part support means that some elements of the recommendation are supported by the VEC. In principle support means that the VEC generally supports the objective(s) of the recommendation but does not support the proposed method for achieving the objective(s) and/or the recommendation requires further changes.

VEC response to Report recommendations

Key objectives and principles

Report recommendation	VEC response
Recommendation 2.1: Another review of Victoria's political finance laws by an independent panel should occur after the 2026 general election, once relevant data are available and annual returns for the election year have been published. Regular independent review of Victoria's political finance laws should occur thereafter every two election cycles.	**The VEC supports this recommendation.** This recommendation has no corresponding VEC recommendation. This recommendation improves the consistency, equity, simplicity and transparency of Victoria's political finance laws.

Key components and defined terms of State political finance laws

Report recommendation	VEC response
Recommendation 3.1: Amend the Electoral Act 2002 (Vic) to state that the entirety of a ticket or fee paid to attend a fundraising event is considered a gift for the purposes of Part 12 of the Act, using s. 5(2) of the Electoral Funding Act 2018 (NSW) as a model provision.	**The VEC supports this recommendation.** This recommendation resolves recommendation 1 of the VEC's submission. It supports further consistency and transparency by accounting for the gift component of a ticket or fee paid to attend a fundraising event. If adopted, this provision should also apply to transactional fees incurred as part of a donation payment.

Report recommendation	VEC response
Recommendation 3.2: Amend the definition of gift in Part 12 of the Electoral Act 2002 (Vic) so that the: • annual value of a membership fee or an affiliation fee up to the 'disclosure threshold', in effect at the relevant time, is not considered a gift • remainder is considered a gift. In the case of an affiliation fee paid by an associated entity to an RPP based on the number of members of the associated entity, the relevant threshold should instead be calculated by multiplying the disclosure threshold by the number of members of the associated entity.	**The VEC supports this recommendation in principle.** This recommendation resolves recommendation 2 of the VEC's submission. It supports further transparency of the scheme by seeking to clarify the definition of a 'gift'. The VEC observes the Panel's intention to support more consistency in the scheme by treating a portion of a membership or affiliation fees as a gift. However, if adopted, this recommendation should be implemented carefully to prevent the introduction of unnecessary complexity, which could undermine the principle of simplicity. If adopted, the VEC recommends the Government considers the following matters: • The Electoral Act would need to clearly outline how the general cap applies to contributions made via membership or affiliation fees in combination with donations. For example, the general cap would need to apply to the total amount contributed, which includes the donation component of the membership or affiliation fee and any non-membership donations, and the Electoral Act would need to be amended to require affected entities to provide this information to the VEC. • There would need to be a legislative mechanism that would allow the VEC to independently verify the number of members of an associated entity for the purposes of calculating the relevant threshold for associated entities. • The Electoral Act would need to clarify whether membership and affiliation fees are considered as separate or cumulative donations. For example, a person could purchase memberships for an associated entity and make a donation to the RPP that the associated entity pays membership fees to. If cumulative, this would add administrative complexity as entities would need to report additional information to enable the VEC to identify and aggregate these amounts for compliance purposes. Significant system changes would also be required to support tracking which would require additional funding. • Calculating the disclosure threshold per member would add administrative complexity for associated entities, RPPs and the VEC due to the large number of members from these entities. Additional reporting will be required from these entities to enable the VEC to identify and aggregate these amounts for compliance purposes. Significant system changes would also be required to support tracking which would require additional

Report recommendation	VEC response
	funding. • Any reference to a 'gift' in this recommendation should be replaced with 'political donation' to support clarity. • The Electoral Act would need to clearly outline the liability of breaching the general cap by making a political donation through a membership fee. For example, it is unclear whether the donor, associated entity or RPP would be responsible for a breach in the general cap under this recommendation. In addition, it is not clear how membership fees paid to multiple RPPs would impact on an associated entity's general cap. • The term 'disclosure threshold' already refers to the monetary threshold used to determine whether a donation needs to be disclosed through a disclosure return. There is the potential for confusion by referring to the relevant threshold for membership or affiliation fees as the 'disclosure threshold', as within the Electoral Act the same term would be used to describe two different concepts within the legislation. Other recommendations made in the Report have sought to address similar issues in Part 12 of the Electoral Act
Recommendation 3.3: Amend the Electoral Act 2002 (Vic) to require the VEC to make Determinations that set a threshold interest rate for an election period. If a Donation Recipient receives a loan with an interest rate under the threshold rate, the difference between the interest charged and the interest that would have been accrued at the threshold rate should be considered a gift.	**The VEC supports this recommendation.** This recommendation resolves recommendation 5 of the VEC's submission. It supports consistency and transparency by accounting for uncharged interest as a gift. Due to variations in interest rates over a 4-year period, it would be necessary to review the threshold interest rate annually, either via a Determination or a prescribed calculation as outlined in recommendation 5 of the VEC's submission. Annual indexation methodology should be made consistent with other indexation requirements for Part 12 of the Electoral Act.

Report recommendation	VEC response
Recommendation 3.4: Amend the Electoral Act 2002 (Vic) to clarify that all forms of volunteer labour performed by an individual, including 'the provision of a service', do not constitute a gift for the purposes of Part 12 of the Act. However, if an individual receives compensation from a third party to perform the relevant service, that constitutes a gift from the third party to the Donation recipient.	**The VEC supports this recommendation in principle.** This recommendation partly resolves recommendation 3 of the VEC's submission. It supports the simplicity of the scheme by clarifying the definition of a 'gift'. The VEC observes the Panel's intention to support simplicity in the scheme by excluding volunteer labour. However, if adopted, this recommendation should be implemented carefully to prevent the introduction of unnecessary complexity. The VEC notes that reconciling compensation from third parties to services provided to individuals risks undermining the principle of simplicity. In its submission, the VEC recommended that the Panel should consider making it explicit in the Electoral Act that the provision of a professional service is not volunteer labour and constitutes a gift. The Panel's recommendation partially supports this objective by recommending that the provision of a service does not constitute a gift, except when a person receives compensation from a third party to perform a 'relevant service'. It should be made clear how 'relevant services' are considered under the legislation. For example, where a service is provided to a candidate on a heavily discounted basis. For this recommendation to be consistently administered, clarity is needed about how the relevant services are defined under the Electoral Act. If this recommendation is adopted, the VEC's view is that issuing a Determination would be an appropriate measure to set clear criteria of a 'relevant service'.

Report recommendation	VEC response
Recommendation 3.5: Expand the definition of political expenditure in Part 12 of the Electoral Act 2002 (Vic) so that it expressly encompasses the definition of electoral expenditure. Review the drafting of Part 12 of the Electoral Act 2002 (Vic) to remove duplicative uses of the terms political expenditure and electoral expenditure.	**The VEC supports this recommendation.** Together with recommendation 3.6, this recommendation resolves recommendation 51 of the VEC's submission. It supports consistency and simplicity by reducing the ambiguity and complexity of the definition of political expenditure. The VEC notes that since the intention of this recommendation is that duplicative uses of 'political expenditure' and 'electoral expenditure' are to be reviewed, the Government should also resolve the single instance in the Electoral Act when 'electoral expenditure' is used without reference to political expenditure at section 215A(6)(b). This use of 'electoral expenditure' may also be replaced with 'political expenditure'. The VEC also suggests that the term 'political expenditure' is renamed to 'election campaign expenditure' to ensure it is plainly understood. This aligns with the VEC's response to the recommendation 6.15 in the Report, in which the VEC recommends that 'public funding' is renamed to 'election campaign funding'. This is because the phrase 'public funding' is often used to refer broadly to funding provided by the State, rather than funding provided for the particular purpose of supporting election campaigns. The VEC's view is that the names of funding streams and their associated expenditure should be maintained in alignment for simplicity and to promote understanding.
Recommendation 3.6: Amend the definition of political expenditure in Part 12 of the Electoral Act 2002 (Vic) so that the same definition applies to all Donation Recipients.	**The VEC supports this recommendation.** Together with recommendation 3.5, this recommendation resolves recommendation 51 of the VEC's submission. It supports consistency by clarifying how political expenditure applies to various reporting entities. This recommendation supports recommendation 3.5 in the Report by enhancing the clarity of the usage of 'political expenditure' within the Electoral Act. The VEC notes its recommendation that 'political expenditure' should be renamed to 'election campaign expenditure'. As this matter is relevant to the Department of Parliamentary Services, the Government should consult with both the Department of Parliamentary Services and the VEC to develop the definition.

Report recommendation	VEC response
Recommendation 3.7: Amend the definition of political expenditure in Part 12 of the Electoral Act 2002 (Vic) to clarify that staff costs (e.g. wages) incurred by a Donation Recipient are only considered political expenditure if the dominant purpose of the staff member's employment is to undertake activities that are otherwise within the definition of political expenditure. For the avoidance of doubt, political expenditure should exclude the employment costs of those RPP staff that conduct the normal day-to-day business of that party. The policy intent of this exception is to ensure that RPPs are not required to pay their core, regular staffing costs from their SCAs.	**The VEC supports this recommendation in principle.** This recommendation has no corresponding VEC recommendation. The VEC observes the Panel's intention to improve simplicity and clarification of staff costs through this recommendation. However, if adopted, this recommendation should be implemented carefully to prevent the introduction of unnecessary complexity, which could undermine the principle of simplicity. The VEC observes that this recommendation aligns with the Australian Electoral Commission's application of the equivalent Commonwealth provision. If adopted, the VEC should also be given express authority to determine a person's changing nature or dominant purpose of employment over time. For example, a person who was hired to help with a candidate's political campaign then stays on to help with the administration of the elected member's office or whose time is spent on both activities in the same period. There will be an associated administrative burden on RPPs to monitor and record what the dominant purpose over time is and then allocate wages accordingly. The VEC notes that if this recommendation is adopted, clear requirements will need to be set to govern its application to MPs' electorate office staff and to ensure there is no possibility of overlap between amounts in a state campaign account (**SCA**) and parliamentary budgets. As this matter is relevant to the Department of Parliamentary Services, the Government should consult with both the Department of Parliamentary Services and the VEC to develop these requirements.

Report recommendation	VEC response
Recommendation 3.8: Amend the Electoral Act 2002 (Vic) to give the VEC the power to make Determinations on the meaning of the term political expenditure, subject to the definition set in the Act.	**The VEC supports this recommendation.** This recommendation resolves recommendation 19 of the VEC's submission. It supports consistency of administration of the scheme. This recommendation aligns with the VEC's existing authority to make Determinations on acceptable claimable expenditure for administrative expenditure funding and policy development funding. If adopted, this will ensure that public funding can adapt to changes in the technological, cultural and electoral landscape. The VEC also recommends renaming 'political expenditure' to 'electoral campaign expenditure' as the current term 'political expenditure' is ambiguous. Using a more specific term would enhance the clarity of Part 12 of the Electoral Act.

Report recommendation	VEC response
Recommendation 3.9: Amend the Electoral Act 2002 (Vic) to state that only the following funds may be placed into the SCA of an RPP, MP, group or candidate at an election: • political donations received, subject to applicable donation caps • public funding provided by the VEC • contributions by candidates at an election or MPs to their own election campaigns, subject to applicable limits — which may include funds accessed by the candidate or MP through a loan • investment returns generated using funds in the SCA, assets purchased using the SCA or the sale of assets purchased using SCA funds.	**The VEC supports this recommendation in principle.** This recommendation partly resolves recommendation 44 of the VEC's submission. The VEC acknowledges the Panel's intention to achieve greater consistency and transparency within the scheme through this recommendation. However, without further amendments, this recommendation could undermine the principle of transparency. If adopted, the VEC would need enhanced authority to audit and monitor compliance with the new requirements. To support the objectives of this recommendation, the VEC prefers that SCAs are established with a starting monetary balance of $0, or returning an existing account to a nil balance, to prevent mixing or introducing other funds. This change protects the transparency and integrity of the SCA system. Without this requirement, it is difficult to discern pre-existing funds in an SCA from political donations and public funding deposited into an SCA. It is difficult to accurately audit an SCA that includes pre-existing funds from other sources. If recommendation 3.11 in the Report is not adopted and nominated entities continue to exist, it should be clarified whether funds from the nominated entity to their associated RPP are allowed to enter the RPP's SCA. For consistency, political donations from the nominated entity to the RPP should go into the SCA of the RPP. As the Panel proposes exempting associated entities and third party campaigners from these rules, the VEC seeks clarity on how this recommendation would apply to those entities. The VEC's preference is that associated entities and third party campaigners are required to keep an SCA. Without an SCA, it is difficult to audit the political donations going to and political expenditure being spent by these entities.

Report recommendation	VEC response
Recommendation 3.10: Amend the Electoral Act 2002 (Vic) to allow associated entities and third party campaigners to elect to not maintain an SCA. Make consequential amendments to the Electoral Act 2002 (Vic) to ensure that the same obligations and restrictions apply to associated entities and third party campaigners (including their registered agents) that maintain an SCA and those that do not.	**The VEC does not support this recommendation.** This recommendation has no corresponding VEC recommendation. The VEC observes the Panel's intention to create equity in the scheme for associated entities and third party campaigners. However, if adopted, this recommendation compromises the principle of transparency. If adopted, this change could place a greater administrative burden onto these entities when fulfilling their reporting obligations. For example, an associated entity that has opted to not maintain an SCA would be required to report on multiple accounts as compared to a single SCA. The VEC notes that exempting these organisations could lead to political donations not being properly identified and disclosed. This recommendation undermines the integrity of the SCA system and makes it difficult to provide transparency to ensure the Electoral Act is being complied with. The effect of this recommendation is that implementation of recommendation 3.9 in relation to associated entities and third party campaigners (see the VEC's response to that recommendation) will be impracticable.
Recommendation 3.11: Amend the Electoral Act 2002 (Vic) to remove the power of an RPP to appoint a nominated entity. References to nominated entities should be removed from the Act. Transitional rules should apply so that affected RRPs can update their arrangements.	**The VEC notes this recommendation.** This recommendation has no corresponding VEC recommendation. The VEC acknowledges the Panel's intention to achieve simplicity and transparency of the scheme through this recommendation.

Report recommendation	VEC response
Recommendation 3.12: Amend the Electoral Act 2002 (Vic) to require the registration of third party campaigners. Set penalties for non-compliance and provide the VEC with enforcement powers.	**The VEC supports this recommendation.** This recommendation partially resolves recommendation 43 of the VEC's submission. Adding registration requirements for associated entities would enhance the transparency and consistency of the scheme. However, in its submission, the VEC also recommended that third party campaigners and associated entities should be required to register with the VEC in order to incur political or electoral expenditure and accept political donations. In addition, associated entities would need to be registered in order to pay membership or affiliation fees to an RPP. These requirements would help the VEC identify and engage with stakeholders about their obligations in a timely manner and reduce unintentional breaches of the Electoral Act. The VEC reiterates that associated entities should also be required to register with the VEC, which remains unaddressed by this recommendation. Requiring the registration of associated entities would ensure greater compliance with their obligations under the Electoral Act. It would also provide better clarity for when their obligations under the Electoral Act begin and cease to apply. This aligns with the NSW scheme, which requires associated entities to be registered as well as third party campaigners. The NSW scheme also requires independent candidates to be registered before they incur political or electoral expenditure. The VEC notes that an appropriate enforcement authority would be needed to support compliance with this recommendation.
Recommendation 3.13: Amend the Electoral Act 2002 (Vic) to enable the registration of 'single electorate RPPs', with the following requirements: • the application for registration must nominate the specific electorate that the 'single electorate RPP' will operate in • the 'single electorate RPP'	**The VEC notes this recommendation.** This recommendation has no corresponding VEC recommendation. The VEC acknowledges the Panel's intention to enhance equity among electoral participants through this recommendation. If adopted, the VEC observes that this recommendation adds complexity to the administration of the system and will require extensive changes to the operating model for State elections and the Electoral Act beyond Part 12. These changes may not achieve all the desired benefits that prompted this recommendation. If this recommendation is adopted, the VEC will require significant additional funding to uplift its systems and capability to implement this change. The complexity of this change means that even with the necessary investment, it could not be properly developed, implemented and

Report recommendation	VEC response
may endorse no more than one candidate at a time, and endorsed candidates may not stand for election in an electorate other than that nominated by the 'single electorate RPP' • the 'single electorate RPP' must have at least 250 members, who must reside in the nominated electorate and not be members of another RPP (whereas RPPs are currently required to have 500 members) • the registration fee should be 25 fee units (whereas it is currently 50 fee units for RPPs) • otherwise, 'single electorate RPPs' should be treated the same as other RPPs. The VEC should have the power to deregister a 'single electorate RPP' that does not comply with the second and third requirements listed above. 'Single electorate RPPs' should be provided with a process for changing into RPPs. Rules should be introduced to address what is to occur if a nominated electorate is abolished or	communicated prior to the 2026 State election. In particular, the VEC notes the following matters: • the current processes applying to RPPs, prospective RPPs and de-registered RPPs through Part 4 of the Electoral Act are largely consistent and generally predictable within most Australian jurisdictions. Processes and rules for registering single electorate RPPs would necessarily depart from this consistency • the application and portability of single electorates RPPs to Legislative Assembly districts and Legislative Council regions and during general elections, by-elections, supplementary elections, and re-elections • candidate nomination and how-to-vote card registration processes, noting the additional entitlements currently available to RPPs • any impacts of electoral boundary changes and/or re-naming of electorates by Victoria's Electoral Boundaries Commission during State redivisions that occur between general elections • access to, and availability of, electoral enrolment information and funding streams before, during and after election events, and the use and reporting obligations that are associated with these entitlements • administration and recognition of MPs from single electorate RPPs through Parliament's conventions, policies, procedures and rules • other administrative and technical matters.

Report recommendation	VEC response
significantly changed due to a boundary redistribution, including providing the 'single electorate RPP' with the right to nominate a new electorate. Legal advice should be obtained to inform amendments ensuring 'single electorate RPPs' receive equal treatment to other RPPs under Commonwealth law.	

Disclosure, reporting and enforcement

Report recommendation	VEC response
Recommendation 4.1: Amend the Electoral Act 2002 (Vic) to provide that the relevant representative of a Donation Recipient must submit a disclosure return for the first, and any subsequent, donation that results in the sum of a single donor's political donations to that Donation Recipient reaching or exceeding the disclosure threshold.	**The VEC supports this recommendation.** This recommendation resolves recommendation 10 of the VEC's submission. It supports transparency, consistency and equity by ensuring that the disclosure obligations relating to aggregation are applied equally between donors and donation recipients.
Recommendation 4.2: Amend the Electoral Act 2002 (Vic) to require each Donation Recipient's annual return to disclose the details of loans equal to or over the disclosure threshold received during the year, including: • the value of the loan • the details of the lender • the loan's terms and conditions.	**The VEC supports this recommendation in principle.** This recommendation partly resolves recommendation 6 of the VEC's submission. It supports consistency by recognising that waived interest on a loan can be a political donation. It also supports transparency by requiring the disclosure of loans, thereby reducing the likelihood that political donations are made via loans. However, in its submission to the Panel, the VEC recommended that loans valued over the disclosure threshold should be disclosed within 21 days and the donor and the donation recipient should each have disclosure obligations. The Report's recommendation 4.2 partially supports these objectives and the VEC reiterates its recommendation that loans should be disclosed in a timely manner. If this recommendation is adopted, the VEC will require additional funding to uplift its systems for loans to be included in annual returns.

Report recommendation	VEC response
Recommendation 4.3: Insert provisions into the Electoral Act 2002 (Vic) that: • provide that a person or entity only makes or receives a gift (or loan) if they are the source or ultimate recipient of the gift or loan, modelled on s. 205A of the Electoral Act 1992 (Qld) • require intermediaries that make political donations or loans to a Donation Recipient to disclose the source of the gift or loan, including relevant particulars, modelled on s. 205B of the Electoral Act 1992 (Qld).	**The VEC supports this recommendation.** This recommendation resolves recommendation 14 of the VEC's submission. It supports transparency by discerning political donations made through intermediaries. However, it does not address related recommendation 12 of the VEC's submission, which recommended that an ultimate recipient should be required to inform donors of their disclosure obligations and provide information to the donor about a donation made through an intermediary. If recommendation 12 of the VEC's submission is adopted, it would support greater transparency. In addition, the term 'intermediary' should be clearly defined to prevent ambiguity, which undefined could compromise the principle of transparency. The VEC recommended that a definition of 'intermediary' be inserted into the Electoral Act to mean a person or entity who accepts a gift or loan from the source of the gift or loan for the purposes of making the gift or loan to the ultimate recipient. If this recommendation is adopted, the VEC will require significant additional funding to uplift its systems and capability to implement this change. The description of 'intermediary' provided by the Panel may include a person or entity that fits under the definition of a third party campaigner under the Electoral Act. The transfer of funds from a source to the ultimate recipient through a third party campaigner may not be of a purely transactional nature (as opposed to the situation where intermediaries such as banks and payment platforms provide a purely transactional service). Instead, the third party campaigner may be acting as an intermediary to transfer a political donation to obscure the source of the donation. For example, an intermediary, as described in the Report, may include a lobbyist as defined by the Victorian Public Service Commission (VPSC), which is required to be registered with the VPSC. Their arrangements are separate to the issue of intermediaries that was raised by the VEC. The VEC acknowledges the Panel's intention to achieve transparency of the scheme by addressing the issue of lobbyists donating on behalf of their clients, or a donor donating up to the general cap in their own name and then also using a lobbyist as an intermediary to make further donations. However, the VEC recommends the Government considers the role of lobbyists as intermediaries for political donations and clearly defines the term 'intermediary' to avoid inadvertently creating ambiguity, which could undermine the principles of consistency and transparency.

Report recommendation	VEC response
Recommendation 4.4: That the Victorian Government further examine the proposal to introduce a donation portal administered by the VEC.	**The VEC notes this recommendation.** This recommendation has no corresponding VEC recommendation. The VEC acknowledges the Panel's intention to achieve simplicity and transparency of the scheme through this recommendation. If this recommendation is adopted and a donation portal is to be implemented, the VEC will require significant additional funding to uplift its systems and capability to implement this change. The complexity of this change and the need for appropriate safeguards means that even with the necessary investment, it could not be properly developed, implemented and communicated prior to the 2026 State election. The VEC's role in administering this system would need to be considered against its position as an independent agency. The VEC's role may be distorted if it is required to 'approve' political donations when they are made rather than regulate them retrospectively. The VEC notes that donation volumes often peak around State elections and high volume of donations that would need to be approved close to an election event may cause administrative delays at a time when recipients most need them, or if the VEC is not provided with sufficient legislative authority and/or funding to perform adequate checks during peak periods, unlawful donations may be received. If donors provide incorrect recipient details, there will be additional risk and administrative burden for the VEC.

Report recommendation	VEC response
Recommendation 4.5: Amend the Electoral Act 2002 (Vic) to state that, if the VEC is notified that a person has become a silent elector, the VEC is required to remove or redact confidential information of that person from documents and disclosures that have already been published. The VEC should update its online portal to require users to notify it if documents lodged include the personal details of silent electors.	**The VEC supports this recommendation.** This recommendation resolves recommendation 47 of the VEC's submission. It supports consistency with the Electoral Act's provisions regarding silent electors. However, it does not address the related recommendation 48 of the VEC's submission. In recommendation 48 of its submission, the VEC recommended that date of birth is added to the list of details that must be provided in a disclosure return by donors who are a natural person. Users of VEC Disclosures have previously provided the VEC with incorrect or out-of-date information in relation to silent electors. The VEC reiterates that the provision of dates of birth would allow the VEC to cross-check for silent elector status more accurately, particularly for donors with more common names, and therefore assist the VEC to meet its obligation not to publish confidential information. As a secondary purpose, the VEC would be better able to identify underage donors and familial connections. While minors may legitimately make political donations under the current laws, this also provides an opportunity for donors to circumvent the general cap by distributing additional donations across family members. See recommendation 48 of the VEC's submission to the Panel. The VEC notes that this is unlikely to be an unnecessary capture of personal information or discourage donors from disclosing political donations, as other Australian jurisdictions (including NSW) require that date of birth is disclosed with a donation disclosure return.

Report recommendation	VEC response
Recommendation 4.6: Amend the Electoral Act 2002 (Vic) to require RPPs to submit, as part of their annual return (in addition to existing requirements): • information on funds paid into the SCA (including source and nature of those funds, subject to relevant thresholds) and out of the SCA • the total sum of political expenditure for the year.	**The VEC supports this recommendation.** This recommendation has no corresponding VEC recommendation. It supports transparency by requiring more complete and comprehensive financial year annual returns. The VEC recommends that other reporting entities should also be required to submit this information. This would result in equal levels of transparency and allow metrics to be compared across all entity types. If this recommendation is adopted, the VEC should be supported by appropriate enforcement tools.

Recommendation 4.7:
Amend Part 12 of the Electoral Act 2002 (Vic) to:
• give the VEC the power to make Determinations, in relation to the audit certificates currently required under ss. 207GD, 209 and 215B, that:
  ○ stipulate the form that audit certificates must take and/or make the use of particular templates mandatory
  ○ permit, in circumstances that the VEC considers appropriate, the inclusion of qualified opinions (or similar opinions or caveats) from the auditor in audit certificates
• define the meaning of the term 'independent auditor'
• correct references to the Australian Accounting Standards to references to the Australian Auditing Standards, where appropriate
• move the requirement for an annual return to be accompanied by an audit certificate, currently in s. 209(2) of the Act, into Division 3C,
	The VEC supports this recommendation.
	This recommendation resolves recommendations 33 and 34 of the VEC's submission. It partly resolves recommendation 31. However, it does not resolve related recommendation 35, which recommended that the term 'independent auditor' in Part 12 of the Electoral Act be replaced in all instances by the term 'registered company auditor'.
	This recommendation supports consistency, simplicity and transparency by enhancing the auditing process and obligations.
	If the wording of audit certificates continues to be prescribed in the Electoral Act, the prescribed wording needs to refer to the correct type of submission, application, statement or return.

Report recommendation	VEC response
which contains other annual return requirements.	
Recommendation 4.8: Amend the Electoral Act 2002 (Vic) to grant the VEC and/or its compliance officers the power to issue cautions and official warnings, and enter into enforceable undertakings, in relation to breaches of Part 12 of the Act. Also allow the VEC and its compliance officers to issue infringement notices to persons who fail to provide a disclosure return or an annual return, as required under Part 12 of the Act. Payment of an infringement notice should not absolve the requirement to still provide the annual return or disclosure return as soon as practicable.	**The VEC supports this recommendation.** This recommendation resolves recommendation 25 of the VEC's submission. It supports consistency by providing the VEC greater ability to ensure compliance with the scheme. This recommendation would significantly strengthen the VEC's capacity to enforce the Electoral Act and effectively address and deter non-compliance at a level proportionate to the relevant breach or offence. Consideration should be given to how the penalty value of the infringement offences would be set and the potential consequences for a person who fails to pay an infringement and/or continues to disregard their obligations. Additional consideration should also be given to whether infringement notices should also apply to the registered agents of entities which fail to provide the information required by s 217O of the Electoral Act.

Report recommendation	VEC response
Recommendation 4.9: That the Victorian Government review Part 12 of the Electoral Act 2002 (Vic) with a view to: • align offence provisions with the remainder of the Act and the Sentencing Act 1991 (Vic) • ensure appropriate penalties apply for rules and obligations imposed under that Part, including giving the VEC the power to issue infringement notices where appropriate • clarify whether each offence is a summary or indictable offence.	**The VEC supports this recommendation.** This recommendation resolves recommendations 26 and 28 of the VEC's submission. It supports greater consistency, simplicity and equity in administering the scheme by clarifying offence provisions. The VEC would welcome the opportunity to provide input into the appropriate offences and penalties that would be covered by this recommendation.
Recommendation 4.10: Amend the Electoral Act 2002 (Vic) to extend the period in which legal proceedings for an offence under Part 12 can be commenced, after the offence was allegedly committed, from three years to eight years.	**The VEC supports this recommendation.** This recommendation resolves recommendation 27 of the VEC's submission. It supports consistency as it will make the period to commence legal proceedings more proportional to the periods between elections.

Report recommendation	VEC response
Recommendation 4.11: Amend ss. 222B(1) and (2) of the Electoral Act 2002 (Vic) to allow a compliance officer to require reasonable assistance as part of issuing a coercive notice, including requiring a person to give all reasonable assistance in connection with an examination or investigation. Ensure the coercive powers of the VEC's compliance officers are consistent with Part 3.10 of the Evidence Act 2008 (Vic), including by making any required amendments to ss. 222B(1) and (2) of the Electoral Act 2002 (Vic).	**The VEC supports this recommendation.** This recommendation resolves recommendation 29 of the VEC's submission. It supports consistency and transparency in administering the scheme by providing compliance officers with greater ability to conduct an examination effectively.

Report recommendation	VEC response
Recommendation 4.12: Amend the Electoral Act 2002 (Vic) to allow the VEC to audit the SCA of a Donation Recipient at any time, including by requesting that a Donation Recipient or its auditor: • provide information about the SCA • provide documents related to the SCA, including bank statements. RPPs should have the option to provide the VEC with live access to accounting ledgers as a way of reducing the compliance burden on RPPs. If an audit certificate required under ss. 207GD, 209 or 215B of the Act includes a qualified opinion, the VEC should have the power to: • request further information from the auditor and the Donation Recipient's representative • undertake audits on how relevant funds have been disbursed.	**The VEC supports this recommendation in principle.** This recommendation resolves recommendations 32 and 36 of the VEC's submission. It supports consistency, simplicity and transparency by enhancing the auditing process and obligations. The VEC observes the Panel's intention to support transparency with this recommendation. However, without further auditing powers, this recommendation alone may not be sufficient. The VEC looks forward to providing input into the feasibility of live access to accounting ledgers to ensure that the scheme is administrable. The VEC recommends that it should also have the power to audit the relevant bank account used for administrative expenditure funding and policy development funding, as these funding streams must not be paid into the SCA. This should be permitted without the need for the VEC to be satisfied on reasonable grounds that information provided to the VEC is materially incorrect. This would bring the Victorian provisions in line with those in NSW.[8] To effectively regulate this requirement, penalties should apply for non-compliance. If this recommendation is adopted, the VEC will require significant additional funding to uplift its systems and capability to implement this change to grant live access. The need to establish a live access portal and develop protocols for operating it means that even with the necessary investment, it could not be properly developed, implemented and communicated prior to the 2026 State election. The VEC notes that 'donation recipients' is not the appropriate term to capture all persons and other entities required to have an SCA.

[8] *Electoral Funding Act 2018* (NSW) s 74.

Report recommendation	VEC response
Recommendation 4.13: Amend the Electoral Act 2002 (Vic) to introduce a definition of the term 'scheme' for the purposes of s. 218B. The Victorian Government or VEC should also issue guidance on: • relevant principles to be taken into account when determining whether a course of conduct constitutes a scheme • examples of prohibited and permitted activities.	**The VEC supports this recommendation in part.** This recommendation resolves recommendation 55 of the VEC's submission. It supports consistency as it will be easier for the VEC to identify schemes against Part 12. In order to be enforceable, the definition of 'scheme' would need to describe certain elements. A scheme could involve the intentional circumvention of provisions of the Electoral Act or an act, or series of acts, that has the effect of circumventing the provisions of the Electoral Act. It may also be helpful for the legislation to include an example of a scheme. Section 1023S of the *Corporations Act 2001* (Cth) defines a scheme to encapsulate a variety of circumstances and applies to both a person and a corporation. Similar wording may apply to Part 12 of the Electoral Act due to the offence covering both natural persons and bodies corporate. To ensure the independence of the oversight of offences in the Electoral Act, it is important that any guidance on this be issued by the VEC as the independent regulator rather than by the State Government. The VEC notes that it would be inappropriate for the State Government to issue guidelines in respect to VEC functions, including the administration and regulatory approach associated with offences under the Electoral Act.

State donation caps and restrictions

Report Recommendation	VEC response
Recommendation 5.1: Amend the Electoral Act 2002 (Vic) to introduce a cap on the amount that a candidate or an MP may contribute to their own election campaign. The value of the cap, per election, should be equal to: • 50 times the value of the general cap, or • such higher amount as required for the cap to be lawful, according to independent legal advice provided to the Victorian Government.	**The VEC notes this recommendation.** This recommendation has no corresponding VEC recommendation. The VEC acknowledges the Panel's intention to enhance equity among electoral participants through this recommendation. If adopted, the VEC observes that the current provisions of Part 12 of the Electoral Act make it difficult for the VEC to distinctly identify self-contributions by endorsed candidates or endorsed members and party donations to a candidate. To resolve that issue, the VEC recommends that an SCA should be kept by the registered officer of the RPP for **each candidate** that is making self-contributions and/or receiving donations for their own campaign. This would assist the VEC to identify contributions in order to administer the cap where a donor donates multiple times to a party, a particular endorsed candidate or endorsed member as well as to their own campaign. Donors and the candidate could still donate up to the general cap (in aggregation) to the party and/or other candidates or endorsed members of the party. The Government should consider an appropriate limit on how candidate loans would operate under this recommendation. The Government should also consider how this requirement would apply to a candidate who decides to contest both a general election and a by- election (or multiple by-elections) within the one election period. Currently, a candidate could contribute to themselves up to the proposed self-contribution cap 2 (or more) times during the election period. This is an opportunity which is not afforded to candidates who do not contest all the same elections as the self-contributing candidate. If all self-contributions are not expended at these elections, the residual amount could be used at a subsequent State election, placing this particular candidate at an unfair advantage over other candidates who were able to contribute up to the proposed self-contribution only once over the election period. As the general cap is tied to the election period, the VEC recommends that the proposed candidate contribution cap should similarly be linked to the election period, rather than individual elections during the election period. The VEC notes that the term 'cap' in this instance could be confusing as cap could also be used to refer to the general cap of $4000 (indexed). The VEC considers overlapping use of the term 'cap' to refer to two separate concepts as a potential point of confusion for donors and recipients.

Report Recommendation	VEC response
Recommendation 5.2: Amend the Electoral Act 2002 (Vic) to clarify that a 'contribution by a candidate or an elected member to their own election campaign' is considered a political donation for the purposes of Part 12 of the Act.	**The VEC supports this recommendation.** Together with recommendation 5.3 and 5.4, this recommendation resolves recommendation 4 of the VEC's submission. It supports simplicity by providing greater clarity to candidates, elected members and the VEC. Providing that self-contributions are political donations, and therefore requiring that they be disclosed, also promotes consistency and transparency with the scheme. The VEC notes that in order to support this change, the definition of 'political donation' in section 206(1) of the Electoral Act should be amended to include a contribution from a candidate at an election or an elected member to their own election campaign.
Recommendation 5.3: Update s. 217D(5) of the Electoral Act 2002 (Vic) to clarify that the 'own-campaign' exemption from the general cap only applies if both of the following apply: • the funds are paid into the SCA of the candidate or MP making the contribution, or the SCA of their RPP, and • the funds are used for the dominant purpose of supporting that candidate's or MP's campaign.	**The VEC supports this recommendation.** Together with recommendations 5.2 and 5.4, this recommendation resolves recommendation 4 of the VEC's submission. It supports greater consistency and equity as it recognises that the self-contribution exemption is intended to support that candidate and not other persons or organisations. The VEC notes that candidates endorsed by an RPP and elected members of an RPP are required to have their SCAs kept by the registered officer of the RPP under section 207F(1) of the Electoral Act. In this scenario, the registered officer would be required to maintain multiple SCAs, one for each endorsed candidate and each elected member of the RPP who made a contribution to their own campaign. It is preferable that endorsed candidates and elected members of RPPs are able to make contributions to a single dedicated SCA maintained by the registered officer of the RPP, but which is appointed for the specific purposes of that candidate or elected member. See also the VEC's response to recommendation 8.6. This would improve the VEC's administrative oversight when accounting for the income and expenditure in the RPP's annual return, and would reduce complexity and confusion for the RPP in producing their annual return.

Recommendation 5.4: Amend s. 207F(8) of the Electoral Act 2002 (Vic) to state that, once all debts have been paid and obligations have been resolved, MPs, candidates and members of a group may retrieve any remaining funds that they contributed to their own campaign.	**The VEC supports this recommendation.** Together with recommendations 5.2 and 5.3, this recommendation resolves recommendation 4 of the VEC's submission. It supports equity by allowing self-contributions to be retrieved from an SCA. However, the VEC notes that numerous technical and administrative considerations must be addressed should this recommendation be adopted. For this recommendation, the VEC's positions are as follows: • This recommendation should be supported by a requirement that only political donations and public funding may be paid into an SCA. This is to prevent the mixing or pre-filling of an SCA with funds that are not political donations or public funding and preserves the integrity of the SCA system (see also the VEC's response to Report recommendation 3.9). • Each endorsed candidate and elected member of an RPP should have a unique SCA that is maintained by the registered officer of the RPP. This makes clear the exact funds that can be retrieved from the candidate's SCA and prevents the mixing of SCA funds between candidates of an RPP. • It should be made clear that certain candidates can retrieve other funds that are not self-contributions to their own campaign from an SCA, for example salaries paid into their SCA which is also their regular banking account. Currently under ss 207F(8)(a)(ii) and 207F(8)(b)(iii) of the Electoral Act, certain candidates must donate any remaining monies in their SCA to a charity if they are unsuccessful. This negatively impacts on the fairness of the scheme for independent candidates (for example) who may have used a regular banking account as their SCA. To reiterate, it would be preferable if SCAs started from a balance of $0 in order to clearly discern political donations and public funding and prevent mixing other funds. • The transparency of this recommendation would be enhanced if the definition of 'charity' was included in the Electoral Act, based on the definition used by the Australian Charities and Not-for-profits Commission. This is to ensure that remaining funds from an SCA go to an appropriate charity. There should also be a way for the VEC to verify that an SCA has been emptied and funds have been delivered to a charity, such as requiring a bank statement, proof of the transfer of funds and the authority for the VEC to independently audit the SCA.

Report Recommendation	VEC response
Recommendation 5.5: Update the definition of the term 'small contribution' in the Electoral Act 2002 (Vic), so that it refers to a political donation that is equal to or less than the value of $100 (subject to future indexation).	**The VEC supports this recommendation.** This recommendation has no corresponding VEC recommendation. It supports simplicity by making the small contributions amount a round number equal to a banknote and together with recommendation 8.2, indexed once every election period.
Recommendation 5.6: Amend the Electoral Act 2002 (Vic) to provide that the general cap does not apply to the political donation of the use of the donor's premises as a campaign office (for free or at a discounted rate of rent) to an RPP, MP, group or candidate at an election. The exemption should also apply to the initial establishment of those premises as a campaign office, to a reasonable standard. That exemption should only apply where the donor either: • owns the property • has an existing lease on the property for a business or enterprise.	**The VEC does not support this recommendation.** This recommendation has no corresponding VEC recommendation. The VEC acknowledges the Panel's intention to create equity in the scheme for candidates. However, if adopted, this recommendation compromises the principles of consistency, transparency and simplicity. In addition, the VEC does not support this recommendation as it is inconsistent with the objectives of Part 12 of the Electoral Act. This recommendation is inconsistent with the objective that donations in-kind should be disclosed and visible to the public. In addition, there would be significant administrative complexity to implement this recommendation and apply it consistently and fairly across all entity types. The Report does not specify how a campaign office should be defined, which—if defined imprecisely—risks undermining the integrity of the scheme if 'campaign office' is able to be broadly interpreted. This recommendation also gives rise to channelling other forms of in-kind donations through the auspices of a lease, such as property outgoings, utilities and telecommunications, reception and secretarial services and building signage. If this recommendation is adopted, further guardrails will need to be developed to ensure this exemption can be applied fairly and is not misused or used in any way that gives rise to channelling other forms of in-kind donations through the auspices of a lease. A definition of 'campaign office' in the Electoral Act would need to accompany this change. The VEC will require a specific power to make a Determination on this matter to be able to administer a consistent standard across entities.

Report Recommendation	VEC response
Recommendation 5.7: Amend the Electoral Act 2002 (Vic) to clarify that: • separate divisions and branches of an organisation, such as a federally registered trade union, may each constitute a separate 'entity' for the purposes of the Act • a gift includes the disposition of property from an RPP, a branch of an RPP or an associated entity, including but not limited to: ○ a disposition of property to a Victorian branch of an RPP from the federal branch of the party ○ a disposition of property to a Victorian branch of an RPP from another State or Territory branch of the party ○ a disposition of property from a political party to another political party.	**The VEC supports this recommendation in part.** The second dot point of this recommendation resolves recommendation 15 of the VEC's submission. The first dot point of the recommendation that relates to separate entities has no corresponding VEC recommendation. The recommendation supports transparency and consistency as political donations within RPPs and associated entities can be accounted for within Part 12 of the Electoral Act. However, without further amendments, part of this recommendation risks undermining the principles of transparency and simplicity. The VEC acknowledges the Panel's intention to clarify the disposition of property within an RPP or an associated entity. However, the VEC has concerns in relation to making that distinction to other entities and the administrative complexity involved in enforcing this distinction. The VEC recommends that the Electoral Act should provide how a division or branch is defined to ensure the effect of any reform is clear. In addition, the general cap would need to continue to apply at a top-of-organisation level. For instance, a donor could donate to the general cap for a division of a certain associated entity but the general cap must also apply for donations made to the highest-level of that organisation, if relevant. In addition, the general cap should apply to interjurisdictional transactions between branches of associated entities or RPPs. The VEC also notes the deeming provision of section 206(3) of the Electoral Act, which applies the concept of 'related body corporate' under the *Corporations Act 2001* (Cth). The VEC seeks clarity on the proposed amendment on section 206(3) of the Electoral Act to ensure the definition of a separate 'entity' does not create inconsistency on the definition of related body corporate.

Report Recommendation	VEC response
Recommendation 5.8: Amend s. 217F of the Electoral Act 2002 (Vic) to reduce the number of third party campaigners that a donor may donate to during the election period to: • three, or • such higher number as required for the limit to be lawful, according to independent legal advice provided to the Victorian Government. Introduce an equivalent limit for donations to associated entities.	**The VEC notes this recommendation.** This recommendation has no corresponding VEC recommendation. The VEC acknowledges the Panel's intention to achieve simplicity and transparency of the scheme through this recommendation. The VEC notes the Report refers to the Independent Broad-based Anti-corruption Commission recommendation to reduce the number of third party campaigners that a donor may donate from 6 to 3.[9] The VEC agrees that an equivalent limit for donations to associated entities would reduce the risk of the general cap being circumvented. The Government should carefully consider implications of reducing the limit, including any legal ramifications. The Government should consider the registration of both associated entities and third party campaigners with the VEC in order to accept donations and incur political expenditure as a measure to increase integrity and oversight.
Recommendation 5.9: Amend the Electoral Act 2002 (Vic) to introduce a ban on cash donations exceeding the value of the 'small contribution' amount (as indexed from time to time).	**The VEC supports this recommendation.** This recommendation partly resolves recommendation 7 of the VEC's submission. It supports consistency, simplicity and transparency as it will be unlawful to use cash in order to circumvent the provisions of Part 12 of the Electoral Act. The VEC notes that the Panel did not recommend that a donation disclosure return should indicate the form in which a donation was made. The VEC reiterates that this requirement is important, as the proposed ban will be difficult to enforce without a disclosure return describing the form in which a donation was made. Under the proposed ban, the VEC will have difficulties in determining whether a donation was made in cash.

[9] Independent Broad-based Anti-Corruption Commission, *Special Report on Corruption Risk Associated with Donations and Lobbying* (report, October 2022) 8.

Report Recommendation	VEC response
Recommendation 5.10: Amend the Electoral Act 2002 (Vic) to require SCAs to be denominated in Australian dollars.	**The VEC supports this recommendation.** This recommendation partly resolves recommendation 8 of the VEC's submission. This recommendation supports simplicity and transparency by removing the confusion of donations made in foreign currency.
Recommendation 5.11: That the Victorian Government consider prohibiting or further regulating political donations made using cryptocurrency.	**The VEC supports this recommendation.** This recommendation partly resolves recommendation 8 of the VEC's submission. Prohibiting donations made in cryptocurrency would support simplicity and transparency. The VEC notes that donations made in cryptocurrency are largely untraceable and make it difficult to satisfactorily identify the donor. They are also highly fluctuating in value, which makes it difficult to monitor compliance with the general cap and disclosure threshold. For the same reasons, the VEC reiterates its recommendation that political donations made in a currency other than Australian dollars should also be prohibited.

Funding support

Report Recommendation	VEC Response
Recommendation 6.1: Amend s. 212A of the Electoral Act 2002 (Vic) to: • reduce the first advance public funding instalment for each election period from 40 per cent to 20 per cent • increase the last instalment in each election period from 20 per cent to 40 per cent.	**The VEC supports this recommendation.** This recommendation resolves recommendation 17 of the VEC's submission. It supports simplicity and consistency with the intended purpose of public funding by paying more of it closer to an election, which is the period when political expenditure is more likely to be incurred. In its submission to the Panel, the VEC recommended that the Panel consider: • reducing the proportion of a recipient's public funding entitlement that is payable in instalments in relation to the next election • reducing the timeframe in which instalment payments are payable to a shorter period that begins closer to the general election. The recommendation in the Report supports these objectives, however the VEC reiterates its recommendation which would greatly reduce the risk of funding being overpaid and unable to be recovered. This change would also align Victoria's model of providing advance public funding with the model in place in NSW. See recommendation 17 of the VEC's submission to the Panel.
Recommendation 6.2: Amend s. 212A(6) of the Electoral Act 2002 (Vic) so that the prohibition, on advance public funding instalments being used as a security or collateral for a loan, also applies to the first instalment paid in each election period.	**The VEC supports this recommendation.** This recommendation has no corresponding VEC recommendation. It supports consistency by extending this provision to all instalment payments of advance public funding. This change would reduce the likelihood of funding recipients being unable to repay funding amounts and external debts.

Report Recommendation	VEC Response
Recommendation 6.3: Amend the Electoral Act 2002 (Vic) to clarify that if an RPP or candidate receives advance public funding for an election under s. 212A, they cannot also receive public funding for that election under s. 212(3) or s. 212(4) of the Act.	**The VEC supports this recommendation.** This recommendation resolves recommendation 18 of the VEC's submission. It supports greater simplicity within the scheme. In its submission to the Panel, the VEC recommended that section 212A(3) of the Electoral Act is amended as follows: (3) Any amount paid to an eligible RPP or an eligible independent candidate under sub-s (2) in relation to a general election must be deducted from the amount payable to the eligible RPP or the eligible independent candidate under section 212(3) or (4). This wording aligns with the wording of section 72(4) of the *Electoral Funding Act 2018* (NSW), which has been proven as an effective legislative limitation in the NSW advance public funding model. The VEC reiterates its recommendation that this specific wording change is adopted. See recommendation 18 of the VEC's submission to the Panel.
Recommendation 6.4: Replace the phrase 'an election in writing to the Commission' in s. 212A(7) of the Electoral Act 2002 (Vic) with a different phrase with the same intended meaning.	**The VEC supports this recommendation.** This recommendation resolves recommendation 57 of the VEC's submission. It supports the consistency and simplicity of the scheme, as the phrase 'election' is a defined term within the Electoral Act and is not appropriate when used in this manner.
Recommendation 6.5: Amend the Electoral Act 2002 (Vic) to require that if a recipient of advance public funding is required to have an SCA, advance public funding received under s. 212A must be paid by the relevant person (e.g. the registered officer or registered agent) into the SCA.	**The VEC supports this recommendation.** This recommendation has no corresponding VEC recommendation. It supports simplicity and transparency by ensuring the use of funds is readily traceable.

Report Recommendation	VEC Response
Recommendation 6.6: Amend the Electoral Act 2002 (Vic) to provide an entitlement to public funding for supplementary elections, modelled on the rules that apply to by-elections.	**The VEC supports this recommendation.** This recommendation resolves recommendation 23 of the VEC's submission. It supports equity and consistency by extending the entitlement to public funding to supplementary elections. Public funding was available to RPPs and candidates at the 2023 Narracan District supplementary election by an Order in Council dated 19 December 2022, which modified and adapted certain provisions of the Electoral Act to enable the supplementary election. Embedding this entitlement into the Electoral Act is consistent with Recommendation 12 of the VEC's *Report to Parliament on the 2022 State election and 2023 Narracan District supplementary election*, in which the VEC recommended that all provisions relating to supplementary elections are codified in legislation rather than requiring Orders in Council.

Report Recommendation	VEC Response
Recommendation 6.7: Amend the Electoral Act 2002 (Vic) to provide an entitlement to public funding for candidates at a failed election. A maximum fixed entitlement should apply for all candidates. Consistent with existing arrangements for public funding, the actual amount payable by the VEC should be the lesser of: • that maximum entitlement • political expenditure actually incurred, as set out in an audited statement of expenditure. One option for setting the maximum fixed entitlement would be to calculate it for each failed election by multiplying: • the 'per-vote' rate that was in effect at the time of the failed election, by • half the number of electors enrolled for that electoral district.	**The VEC supports this recommendation.** This recommendation resolves recommendation 23 of the VEC's submission. It supports equity and consistency by extending the entitlement to public funding to supplementary elections. In its submission, the VEC recommended that the Panel consider possible models for providing an entitlement of public funding to candidates at failed elections The VEC notes the alternative solutions proposed in the Report. While this model may result in candidates and RPPs receiving funding when they would not have met the eligibility criteria at a completed election, the VEC supports the model chosen for this recommendation as the most appropriate of those proposed solutions. The amount paid should not exceed the amount of claimable expenditure incurred by the recipients. If recommendation 6.8 in the Report is adopted, it would be necessary for the Electoral Act to expressly provide that an entitlement to public funding in respect of a failed election does not entitle the recipient to advance public funding in respect of the next election, as this would be appropriately managed through an entitlement in respect of the supplementary election.

Report Recommendation	VEC Response
Recommendation 6.8: Amend the Electoral Act 2002 (Vic) to: • extend the entitlement to advance public funding under s. 212A to a supplementary election held because an election, at the preceding general election, failed • clarify that entitlement does not apply to a candidate that unsuccessfully contested a different electorate at the preceding general election, and who was already entitled to advance public funding as a result.	**The VEC supports this recommendation.** This recommendation resolves recommendation 24 of the VEC's submission. It supports equity by reducing the disadvantage incurred by candidates who contest a supplementary election, by extending the entitlement to public funding to them.
Recommendation 6.9: Amend the Electoral Act 2002 (Vic) to clarify that RPPs that run a joint ticket for the Legislative Council may jointly nominate an agreed share of public funds associated with the joint ticket to be paid to each RPP.	**The VEC supports this recommendation.** This recommendation has no corresponding VEC recommendation. It supports consistency and equity by ensuring the same approach is applied to all RPPs. The recommendation reflects the position adopted by the Supreme Court of Victoria. The VEC supports clarity in relation to the funding entitlements of candidates running a composite group for a Legislative Council election. The VEC recommends that such a request should be managed through a request made in a prescribed form or a form determined by the VEC, and required to be agreed and signed by the registered officers of all RPPs in the composite group.

Report Recommendation	VEC Response
Recommendation 6.10: Amend the Electoral Act 2002 (Vic) to provide the VEC with discretionary powers to grant extensions to RPPs and MPs who fail to submit an Administrative Expenditure Return, 'statement of expenditure' for public funding or expenditure statement for policy development funding.	**The VEC supports this recommendation in principle.** This recommendation partly resolves recommendation 16 of the VEC's submission. It supports equity by allowing independent elected members and small parties with more time to submit a successful administrative expenditure funding statement of expenditure. However, without further amendments, this recommendation alone may not be sufficient to support the principle of consistency. The VEC's recommendation 16 from its submission recommends a mechanism to reduce funding entitlements by an increment for each day after the administrative expenditure funding annual return due date, until a final date whereby the return is considered as not having been submitted. The VEC's view is that issuing a Determination would be an appropriate measure to enforce this recommendation in order to clarify the acceptable reasons for an extension to be granted. In addition, the offence provision proposed by the VEC enhances the enforceability and equity of administration of the scheme as it would penalise late submissions of administrative expenditure funding returns. It will also prevent administrative expenditure funding recipients from adopting the expectation that they can rely on the VEC to provide them with an extension for an administrative expenditure funding return without regard for the legitimate need for an extension.

Report Recommendation	VEC Response
Recommendation 6.11: Amend s. 215A(3) of the Electoral Act 2002 (Vic) to provide that, subject to other eligibility requirements, an RPP may be eligible for policy development funding if either: • it has been an RPP for the whole of the calendar year for which policy development funding is claimed, or • it applied for registration in the previous calendar year and was registered in the calendar year for which policy development funding is claimed.	**The VEC supports this recommendation in principle.** This recommendation has no corresponding VEC recommendation. It supports equity by providing RPPs with a broader entitlement to policy development funding. However, without further amendments, this recommendation risks undermining the principle of equity. The VEC recommends that the amount of policy development funding payable to an RPP that applies for registration before the start of a calendar year but is not registered until a point during that calendar year should be calculated on a pro rata basis for the portion of the year for which they are registered, from the date of registration.

Recommendation 6.12: Amend the Electoral Act 2002 (Vic) to combine policy development funding and administrative expenditure funding into a single funding stream called Administrative and Policy Funding, which covers both administrative and policy development expenditure. Administrative and Policy Funding should be paid quarterly in advance. Receipt of public funding by an RPP should not affect its eligibility for Administrative and Policy Funding or the amount that it may claim. Note: In this Report, the Panel has discussed administrative expenditure funding and policy development funding as separate funding streams and made recommendations accordingly, consistent with existing arrangements. However, if administrative expenditure funding and policy development funding are combined into Administrative and Policy Funding, the Panel's recommendations regarding changes to administrative expenditure funding and policy development funding should be read as applying to Administrative and Policy Funding where required.	**The VEC does not support this recommendation.** This recommendation has no corresponding VEC recommendation. The VEC observes the Panel's intention to create simplicity in the scheme by combining the two funding streams. However, if adopted, this recommendation compromises the principles of simplicity, transparency and equity. The VEC recommends that administrative expenditure funding and policy development funding remain as separate funding streams with separately maintained definitions of claimable expenditure. The VEC's view is that combining these two funding streams into a single funding stream is likely to further complicate funding administration, rather than simplify it as intended in the Report. The VEC is also concerned that this change would distort the purpose of policy development funding and could increase inequality among political participants in a manner unintended in the Report (for example, independent elected members and independent candidates are not eligible to receive policy development funding). There would also be no benefit to simplicity or consistency for funding recipients, as it is not possible for any funding recipients to receive both funding streams. There may be benefits to expanding annual funding entitlements to RPPs who are entitled to neither administrative expenditure funding nor policy development funding, however this must be carefully considered and the purpose of this funding must be clearly articulated to ensure it covers appropriate expenditure and is paid in an appropriate manner. Administrative expenditure funding is provided to RPPs with endorsed elected members and to independent elected members for relevant administrative matters. Policy development funding is provided to RPPs without an entitlement to any other stream of funding to support the development of a policy platform. However, such an expansion would need to be carefully considered with respect to its impact on equal participation. The existing inability for independent candidates to access funding outside of political expenditure directly related to an election would become an exacerbated inequality if all other direct political participants were entitled to receive funding for policy development and administrative purposes outside of election campaigns. The VEC also has concerns about the proposed payment approach. Changing the payment model for current recipients of policy development funding, being smaller RPPs, from a reimbursement model to an advance quarterly payment model, would increase the risk of overpayment and difficulty recovering debts. While the VEC may pursue recovery of these

Report Recommendation	VEC Response
	funds, it is preferable to prevent overpayment than to respond to it through debt recovery. If pre-payment remains the preferred model, the financial risk would be lower if payment were made monthly, rather than quarterly and expenditure returns were provided more often than annually. If this recommendation is adopted, the VEC will require significant additional funding to uplift its systems to implement this change. If the single electorate RPP model is adopted, the Government should consider the administration and amount of funding entitlements for these entities.

Report Recommendation	VEC Response
Recommendation 6.13: Amend the Electoral Act 2002 (Vic) to state that: • auditing expenses incurred in submitting an Administrative Expenditure Return can be included as claimable expenses in that Administrative Expenditure Return • auditing expenses incurred in submitting a statement of expenditure, for public funding, can be included as claimable expenditure for that statement. For the avoidance of doubt, it should be made clear that auditing expenses cannot be claimed more than once. For example, if auditing expenses are included in a statement of expenditure for public funding, those same expenses cannot also be included in an Administrative Expenditure Return.	**The VEC supports this recommendation in principle.** This recommendation resolves recommendations 20 and 21 of the VEC's submission. It supports consistency and simplicity in administering the scheme. However, without further amendments, this recommendation may not be sufficient to support the principle of consistency. The VEC recommends that, for consistency across funding streams, audit expenses should also be claimable in relation to a statement of policy development expenditure. The VEC reiterates its recommendation made to the Panel that the Electoral Act should be amended to provide that an administrative expenditure funding annual return must specify the amount of claimable expenditure incurred in relation to the calendar year or election (as applicable), regardless of whether the maximum entitlement has been reached. See recommendation 20 of the VEC's submission to the Panel.

Report Recommendation	VEC Response
Recommendation 6.14: That the Electoral Act 2002 (Vic) be amended to give the VEC the power to set rules in its Determinations on how capital assets may be claimed and included in statements required under Divisions 1C, 2 and 2A of Part 12. Without limiting the rules the VEC may set, matters that Determinations should be able to address include: • how capital costs should be amortised and the economic life of a capital asset • information that must be provided to the VEC regarding the purchase of capital assets, if that expenditure is claimed.	**The VEC supports this recommendation in principle.** This recommendation partly resolves recommendation 22 of the VEC's submission. It supports consistency and simplicity in administering the scheme. However, if adopted, this recommendation should be implemented carefully to prevent the introduction of unnecessary ambiguity, which could undermine the principle of simplicity. In addition, the proposed power to make Determinations in relation to how capital assets are to be claimed should be supported by specific provisions to enable the VEC to recover asset-related expenditure that has ceased to be claimable expenditure. The VEC's view is that issuing a Determination to set rules on the reporting of capital assets purchased using public money would be an appropriate measure to support these requirements.
Recommendation 6.15: Amend Part 12, Division 2 of the Electoral Act 2002 (Vic) to rename the funding support stream currently titled 'public funding'.	**The VEC supports this recommendation.** This recommendation has no corresponding VEC recommendation. The VEC suggests that it would be appropriate to align the name of the funding stream with the name of an equivalent funding stream in another Australian jurisdiction, such as 'election campaign funding' in NSW. This recommendation supports simplicity as it would be easier to convey the purpose of the funding stream to funding recipients. In addition, the VEC's suggestion would contribute to consistency with the name of funding streams in other jurisdictions. It would also be beneficial for simplicity and consistency if the names of funding streams and their associated expenditure were maintained in alignment. The VEC recommends that 'political expenditure' should be renamed to 'election campaign expenditure'. See also the VEC's response to recommendation 3.5.

Report Recommendation	VEC Response
Recommendation 6.16: Amend Part 12, Division 1C of the Electoral Act 2002 (Vic) to provide a different name for 'annual returns' required under that Division.	**The VEC supports this recommendation.** This recommendation resolves recommendation 56 of the VEC's submission. It supports simplicity as it clarifies and separates the relationship between financial year annual returns and other items. The VEC recommends that all statements provided in respect of a funding claim be named using the same naming convention. The VEC suggests that the statements could be named as follows: • Statement of administrative expenditure • Statement of policy development expenditure • Statement of election campaign expenditure (if the VEC's responses to recommendations 3.5 and 6.15 are accepted and 'public funding' and 'political expenditure' are renamed).

Expenditure caps

Report Recommendation	VEC Response
Recommendation 7.1: Amend the Electoral Act 2002 (Vic) to introduce expenditure caps for third party campaigners and associated entities, with the following features: • cap applies to political expenditure • cap applies to each election period and resets at the start of each new election period • initial value of the cap is $1,000,000 per election period, or such higher amount that may be required to ensure it is lawful according to independent legal advice provided to the Victorian Government • value of the cap is to be indexed at the start of each election period, in line with movements in the all groups consumer price index for Melbourne in original terms as published by the Australian Bureau of Statistics.	**The VEC notes this recommendation.** This recommendation has no corresponding VEC recommendation as the VEC does not have a policy position on whether an expenditure cap should be established. This recommendation considers some of the matters expressed by recommendation 58 of the VEC's submission to the extent that there are technical practicalities of implementing a political expenditure cap. The VEC acknowledges the Panel's intention to achieve equity and transparency of the scheme through this recommendation. If this recommendation is adopted, the VEC will require significant additional funding to uplift its systems and capability to implement this change. The additional monitoring and reporting systems required for this change means that even with the necessary investment, it could not be properly developed, implemented and communicated prior to the 2026 State election. If this recommendation is adopted, the VEC reiterates its recommendation that a register of associated entities and a register of third-party campaigners should be established, and that associated entities be required to register with the VEC in order to incur political expenditure. The VEC is likely to encounter significant difficulty with monitoring and enforcing an expenditure cap without a comprehensive record of which entities it applies to. For the same reason, the VEC would require disclosure of who and what political expenditure was spent on. In Queensland, under Division 10 of Part 11 of the *Electoral Act 1992* (Qld), all election participants must provide an itemised disclosure of electoral expenditure, which includes who supplied the goods or services, a description of those goods or services, the amount of expenditure and when the expenditure was incurred by the election participant. See recommendation 12 of the VEC's submission to the Panel. If recommendation 3.11 in the Report is not adopted and nominated entities continue to exist, the VEC notes that a consistent approach should apply to nominated entities, such that they are bound by an express or de facto expenditure cap. The VEC also supports the recommendation in Chapter 7.3 (p. 275) of the Report that the Government undertakes further consultation with the VEC about the funding and resourcing needed to administer the political expenditure cap.

Report Recommendation	VEC Response
Recommendation 7.2: Amend the Electoral Act 2002 (Vic) to require third party campaigners and associated entities to report on political expenditure incurred for the year as part of their annual returns, in addition to existing requirements.	**The VEC notes this recommendation.** This recommendation has no corresponding VEC recommendation as the VEC does not have a policy position on whether an expenditure cap should be established. This recommendation considers some of the matters expressed by recommendation 58 of the VEC's submission to the extent that there are technical practicalities of implementing a political expenditure cap. The VEC acknowledges the Panel's intention to achieve equity and transparency of the scheme through this recommendation. The VEC notes that if recommendation 7.1 in the Report is adopted, transparency and monitoring of an expenditure cap would be supported if associated entities and third party campaigners were required to provide a consolidated breakdown of expenditure by category and recipient in their annual returns. In Queensland, under Division 10 of Part 11 of the *Electoral Act 1992* (Qld), all election participants must provide an itemised disclosure of electoral expenditure, which includes who supplied the goods or services, a description of those goods or services, the amount of expenditure and when the expenditure was incurred by the election participant. This is one example of an ideal model for the disclosure of political expenditure, noting also that jurisdictions have differing expenditure disclosure requirements. For equal transparency, the VEC strongly recommends the same disclosure requirements to apply to all entity types.

Report Recommendation	VEC Response
Recommendation 7.3: Amend the Electoral Act 2002 (Vic) to give the VEC the power to issue infringement notices for breaches of expenditure caps applying to third party campaigners and associated entities. The fine should be equal to the lesser of: • double the amount of overspend • 12 penalty units for an individual or 60 penalty units for a body corporate. Make intentional or reckless breach of an expenditure cap applying to third party campaigners and associated entities a criminal offence, punishable by level 6 imprisonment (5 years maximum) or level 6 fine (600 penalty units). For the avoidance of doubt, s. 218B of the Electoral Act 2002 (Vic) should apply to schemes intended to circumvent expenditure caps applying to third party campaigners and associated entities.	**The VEC notes this recommendation.** This recommendation has no corresponding VEC recommendation as the VEC does not have a policy position on whether an expenditure cap should be established. While the VEC does not express a view on whether an expenditure cap should be introduced, the VEC supports appropriate enforcement tools being made available to the VEC to regulate any new requirements of the scheme. This recommendation supports consistency by providing the VEC greater ability to ensure compliance with the scheme. This recommendation considers some of the matters expressed by recommendation 58 of the VEC's submission to the extent that there are technical practicalities of implementing a political expenditure cap. The VEC agrees that if recommendation 7.1 in the report is adopted, the VEC must have appropriate enforcement tools, including infringement notices and forfeiture of donations and/or funding to the State, to ensure effective regulation of the new scheme. The VEC also notes that compliance officers must have appropriate investigative tools to ensure that breaches and offences can be properly investigated and effectively responded to. The VEC builds on recommendation 16 of its submission to the Panel for an applicable sliding scale of consequences in proportion to the severity of the breach or offence. A sliding scale of consequences for failing to comply with the expenditure cap could include the issue of fines initially and up to the potential disqualification of persons to become registered officers or registered agents if they commit a serious offence against the Electoral Act, or the equivalent electoral legislation of another jurisdiction. This recommendation is consistent with Recommendation 10 of the VEC's Report to Parliament on the 2022 State election and 2023 Narracan District supplementary election, in which the VEC recommended appropriate tools for the investigation and enforcement of offences under the Electoral Act more broadly. If this recommendation is adopted, the VEC will require significant additional funding to uplift its systems and capability to implement this change.

Timing, administrative and other matters

Report Recommendation	VEC Response
Recommendation 8.1: Change references to 'financial year' in Division 3 of Part 12 of the Electoral Act 2002 (Vic), Disclosure of political donations, to references to 'calendar year'. Change the definition of 'election period' in s. 206 of the Electoral Act 2002 (Vic) to refer to each period commencing on 1 January following the previous general election and ending on 31 December of the year of the next general election. Make the deadline for submitting a statement of expenditure under s. 208 of the Electoral Act 2002 (Vic) 16 weeks from the end of the election period for that election. Update Division 3C of Part 12, Annual returns and other information, to make annual returns apply to calendar years rather than financial years. Make the deadline for submitting an annual return 16 weeks from the end of each calendar year.	**The VEC supports this recommendation.** This recommendation resolves recommendation 49 of the VEC's submission. It supports simplicity by aligning certain reporting periods to be more straightforward. Stakeholders will be more likely to comply with their reporting requirements within these recommended reporting periods. The simplicity of Victoria's funding and disclosure laws would be significantly improved for the VEC and reporting entities if all funding application and reporting periods were aligned to the end of each calendar year. For annual returns that align to calendar years, the VEC reiterates its recommendation to the Panel that the publication of applicable annual returns should be due by 31 August each year. See recommendation 49 of the VEC's submission to the Panel. The VEC notes that if the recommendation is adopted, transitional arrangements will be required to ensure continuity of reporting and clear obligations on donors and donation recipients during the transition from financial years to calendar years. The VEC looks forward to working with the Government on how this change can be implemented, including options for streamlining reporting requirements.

Report Recommendation	VEC Response
Recommendation 8.2: Amend s. 217Q of the Electoral Act 2002 (Vic) so that the value of the general cap, disclosure threshold for political donations and small contribution amount are indexed at the start of each election period, rather than each financial year. Indexation should continue to be based on the change in the all groups consumer price index for Melbourne in original terms, published by the Australian Bureau of Statistics, over the relevant period. Values should be rounded down to the nearest: • $500, in the case of the general cap • $100, in the case of the disclosure threshold • $10, in the case of the small contribution amount.	**The VEC supports this recommendation in principle.** This recommendation partly resolves recommendation 9 of the VEC's submission. It supports improved simplicity for donors and donation recipients by limiting the confusion caused by changing values. However, without further amendments, this recommendation risks undermining the principle of simplicity. The VEC looks forward to providing input to the Government on how the rounding approach would apply. In particular, the proposed change would fix the problem with the current indexation of the general cap which means that an unlawful political donation made early in an election period may be lawful later in the same election period despite the general cap not having reset, due to annual indexation of the 4-year general cap. However, the VEC also recommends that to ensure that indexation is aligned, and to promote further simplicity in the funding scheme as well as the donation scheme, that all other values in Part 12 of the Electoral Act which are currently indexed each financial year be indexed at the end of each calendar year. This will align indexation to the relevant funding periods each calendar year, ensuring that funding entitlements, statements of expenditure and returns are calculated using the most recent available indexation data. It will also allow for concurrent indexation of all values (with the exception of penalty rates, which are set by the Department of Treasury and Finance), and therefore simpler communication to donors, donation recipients and funding recipients, at the end of an election period.
Recommendation 8.3: Amend Part 12 of the Electoral Act 2002 (Vic) to allow registered agents to appoint deputy registered agents, similar to the process for appointing deputy registered officers of RPPs.	**The VEC supports this recommendation.** This recommendation resolves recommendation 37 of the VEC's submission. It supports equity and consistency with the Electoral Act by providing that registered deputy agents can be appointed.

Recommendation 8.4: Amend s. 207E of the Electoral Act 2002 (Vic) to give the VEC the power to remove a person from the Register of Agents, following the appointer ceasing to be a Donation Recipient, if the VEC is satisfied on reasonable grounds that all outstanding obligations of the registered agent under Part 12 of the Electoral Act 2002 (Vic) have been fulfilled.	**The VEC supports this recommendation in principle.** This recommendation partly resolves recommendation 38 of the VEC's submission. It supports simplicity by providing clarity around the status of a registered agent where the appointer of the registered agent ceases to be a relevant person or entity. However, without further development, this recommendation risks undermining simplicity and consistency. While the VEC agrees with the flexibility that the Panel's recommendation would provide, 'donation recipient' is not the appropriate term to refer to all persons or entities with a registered agent as they remain politically active even though they may not receive donations every year. In this context, it is critical that the person or entity's receipt of political donations (or lack thereof) is not the deciding factor for whether they have a registered agent. These entities may exist without receiving donations. Similarly, a deregistered RPP, former elected member or former candidate may cease to receive political donations but still have outstanding disclosure, reporting and re-payment obligations. The VEC recommends that this reason for removing a person from the Register of Agents, as well as all existing reasons for removing a person from the Register of Agents under section 207E of the Electoral Act, be extended to also apply to deputy registered agents (if recommendation 8.3 in the Report is adopted) and maintained in alignment to the reasons for removing a registered officer or deputy registered officer from the Register of Agents and the Register of Political Parties. For completeness, the VEC recommends that the reason for removal of relevant persons under section 207E(3), where a person has been convicted of an offence against Part 12 of the Electoral Act or Part XX of the *Commonwealth Electoral Act 1918* (Cth), is expanded to include an offence committed against the relevant political funding and donation disclosure laws of any Australian jurisdiction. The VEC needs to have the authority to remove a person as a registered officer, deputy registered officer, registered agent or deputy registered agent if they demonstrate repeated failure to comply with their obligations under the Electoral Act. There also need to be consequences, for example a fine, for other non-compliance. such as failure to notify the VEC of the death of a registered officer, deputy registered officer, registered agent or deputy registered agent, or a reduction in the number of an RPP's elected members within the prescribed timeframe.

Report Recommendation	VEC Response
Recommendation 8.5: Review the obligations and responsibilities placed on candidates in Division 2 of Part 12 of the Electoral Act 2002 (Vic) and make amendments to place those responsibilities on registered agents where appropriate.	**The VEC supports this recommendation.** This recommendation partly resolves recommendation 39 of the VEC's submission. It clarifies the obligations and responsibilities of candidates and registered agents, which would enhance the principles of transparency and simplicity. However, in its submission, the VEC recommended that the Panel consider whether it is desirable for 'default agents' to be prevented from performing their own obligations due to the appointment of a registered agent and for a clarifying provision to be inserted into the Electoral Act. The Panel considered this matter (pp. 289-290) but did not make a recommendation for this to be clarified in legislation. The Panel concluded that it is appropriate for corresponding authority to be granted to registered agents to the exclusion of others. The VEC reiterates that a clarifying provision be inserted to determine whether a candidate or their registered agent or deputy registered agent can act on the candidate's behalf, but that the candidate retains overall legal responsibility for assertions and actions made by their registered agent or deputy registered agent.

Report Recommendation	VEC Response
Recommendation 8.6: Amend the Electoral Act 2002 (Vic) to clarify that each Donation Recipient's SCA must consist of one or more accounts that are unique and separate to the accounts used by other Donation Recipients. Provide exceptions, as appropriate, for RPPs and endorsed MPs, candidates and groups.	**The VEC supports this recommendation.** This recommendation resolves recommendation 46 of the VEC's submission. It supports the principles of simplicity and transparency by making it significantly easier for the VEC to identify and oversee the movement of political donations and expenditure. The VEC supports SCAs being unique and separate to the SCAs of other persons or entities. The VEC notes that 'donation recipients' is not the appropriate term to refer to all persons or entities required to have an SCA. The VEC notes that in its submission to the Panel, it recommended that SCAs be a single account. The Panel did not accept the VEC's recommendation and the VEC is satisfied that if recommendations 4.12 and 8.7 in the Report are adopted then the transparency risks of an SCA consisting of multiple accounts would be mitigated because the VEC would be aware of all SCAs and have appropriate levels of oversight. However, if that recommendation is not adopted, the VEC reiterates its original recommendation that all SCAs must be registered with the VEC and any changes reported within 30 days. For RPPs, each endorsed candidate and endorsed elected member should have a dedicated SCA which is maintained by the registered officer of the RPP, and the RPP should also have its own dedicated SCA. See also the VEC's response to recommendation 5.3. In regard to the exception for RPPs and endorsed members, candidates and groups, the VEC believes that an RPP should maintain a central SCA for the party and that endorsed members and candidates maintain their own SCA. In all other instances, no entity or person should share their SCA with another entity or person. The VEC notes that penalties should apply to encourage compliance with this requirement. If this recommendation is adopted, the VEC will require significant additional funding to uplift its systems to re-configure VEC Disclosures, as it is currently only configured to recognise one SCA for each entity.

Report Recommendation	VEC Response
Recommendation 8.7: Amend the Electoral Act 2002 (Vic) to require accounts used as an SCA to be registered with the VEC, and for the VEC to be notified of changes to those accounts, within five business days of: • the obligation to maintain an SCA arising • a change being made to those accounts.	**The VEC supports this recommendation in part.** This recommendation resolves recommendation 46 of the VEC's submission. The VEC acknowledges the Panel's intention to achieve transparency of the scheme through this recommendation. However, without further amendments, this recommendation risks undermining consistency. The VEC notes that, consistent with recommendation 4.9 in the Report, the person or entity with an SCA should be required to notify the VEC of changes to their SCA and, if they fail to do so, there should be the appropriate offence provision, penalty and enforcement powers. The VEC notes the Panel recommends for the VEC to be notified within 5 business days, which aligns with the same requirement for the Queensland scheme. The VEC notes that Queensland's reporting timeframes are, in some circumstances, significantly shorter than those in Victoria. The VEC's view is that this time limit may be significantly shorter than other reporting timelines in Victoria, and this requirement could be aligned to the time limit for other requirements in Part 12 of the Electoral Act such as 21 days or 30 days. This will better support registered officers and registered agents to meet their obligations.

Report Recommendation	VEC Response
Recommendation 8.8: Undertake a technical review of Part 12 of the Electoral Act 2002 (Vic), to identify required changes to ensure residual obligations and responsibilities of a former Donation Recipient and their relevant representative continue to apply and remain enforceable. The review should identify changes required to ensure that debts owed to the State by a former Donation Recipient remain recoverable. The Electoral Act 2002 (Vic) should be updated based on the outcome of that review.	**The VEC supports this recommendation.** This recommendation partly resolves recommendations 40 and 41 of the VEC's submission. It supports consistency by ensuring that residual obligations are accounted for within Part 12. However, it does not address related recommendation 42. The VEC has separately corresponded with the Government in respect to this matter and seeks a priority amendment to address the legislative deficiency in relation to enduring obligations. Bad and doubtful debts will continue to accumulate at a cost to the State until an effective legislative fix is in place. The VEC supports a technical review, but this could be completed subsequently to resolving the identified deficiency. Additionally, the VEC notes this is another circumstance where the term 'donation recipient' is not appropriate for capturing those people and entities the recommendation intends to reach.
Recommendation 8.9: Review and update Part 12 of the Electoral Act 2002 (Vic) to specify its extraterritorial application.	**The VEC supports this recommendation.** This recommendation resolves recommendation 54 of the VEC's submission. It would support consistency as the VEC's extra-territorial jurisdiction would be clear for matters under Part 12 of the Electoral Act.

Local government

Report Recommendation	VEC Response
Recommendation 9.1: Extend the application of local government political finance laws to the following Local Government Donation Recipients: • candidates and candidate groups • RPPs that endorse candidates and/or incur political expenditure for local government elections • associated entities • third party campaigners.	**The VEC notes this recommendation.** This recommendation has no corresponding VEC recommendation. The VEC refers to its response to the recommendations of the Independent Broad-based Anti-corruption Commission in its special report into the donation risks associated with corruption and lobbying.

Report Recommendation	VEC Response
Recommendation 9.2: Amend the Local Government Act 2020 (Vic) to: • give a central regulatory agency, such as the VEC or LGI, responsibility for administering and enforcing local government political finance laws • require election campaign donation returns to be submitted by candidates and other Local Government Donation Recipients to that regulatory agency, and require that agency to publish returns on its website. It is important that the regulatory agency is properly resourced to oversee, administer and enforce local government political finance laws, including by supporting Local Government Donation Recipients to understand and comply with their obligations. In addition, the LGI should be responsible for managing a central database holding all personal interest returns submitted by councillors. This central register would then be online and available for inspection as is the situation for State and Commonwealth MPs.	**The VEC notes this recommendation.** This recommendation has no corresponding VEC recommendation. The VEC notes the commentary in the Report that election campaign donation returns by candidates at local government elections are currently lodged with the Chief Executive Officer of the relevant local council and agrees that this limits consolidated reporting and state-wide oversight. As the obligation for candidates at local government elections to lodge election campaign donation returns is governed by the *Local Government Act 2020* (Vic), non-compliance is currently the responsibility of the Local Government Inspectorate. If a central regulatory agency, such as the VEC or Local Government Inspectorate, is tasked with receiving election campaign donation returns from candidates for local government elections directly, the VEC agrees that appropriate legislative, budget and regulatory capability must also be given to the agency.

Report Recommendation	VEC Response
Recommendation 9.3: Amend the Local Government Act 2020 (Vic) to require 'real-time' disclosure of political donations at local government elections, similar to requirements that apply to State elections. Require both donors and recipients to submit a disclosure return for donations over the applicable disclosure threshold.	**The VEC notes this recommendation.** This recommendation has no corresponding VEC recommendation. At the local government level, where there are significantly more grassroot activities and independent candidates, donation requirements on individuals should be considered carefully to ensure the ease of participation by the general public in electoral campaigning and democracy. The VEC notes that candidates at local council elections do not receive funding to help cover the administrative costs of complying with their donation obligations, which may be significant to individuals. The significantly higher number of local government candidates compared to State election candidates and the increased regularity of election events would have a greater funding and resource impact on the agency charged with administering and regulating these obligations. To implement the Panel's recommendation, the relevant agency would need additional support through significant funding and resourcing. The Government should also consider the administrative and technical system changes required to implement this recommendation.
Recommendation 9.4: That caps on political donations to Local Government Donation Recipients are introduced and linked to the general cap for State elections, subject to further analysis and consultation on what an appropriate value for a donation cap would be.	**The VEC notes this recommendation.** This recommendation has no corresponding VEC recommendation.

Report Recommendation	VEC Response
Recommendation 9.5: That the regulatory agency responsible for administering local government political finance laws is granted the power to issue infringement notices, cautions, official warnings and enforceable undertakings for breaches of those laws, in addition to the power to bring criminal prosecutions.	**The VEC notes this recommendation.** This recommendation has no corresponding VEC recommendation.
Recommendation 9.6: Introduce bans on foreign and anonymous political donations for local government elections, analogous to existing bans for State elections.	**The VEC notes this recommendation.** This recommendation has no corresponding VEC recommendation.

Electronic assisted voting

Report Recommendation	VEC Response
Recommendation 10.1: Amend the Electoral Regulations 2022 (Vic) to enable the VEC to run a limited trial of electronic assisted voting for electors located outside of Victoria during an election.	**The VEC supports this recommendation.** The VEC reiterates its recommendation 59 made in its submission to the Panel and in the *Report to Parliament on the 2022 State election and 2023 Narracan District supplementary election*, that the classes of electors eligible to access electronic assisted voting are expanded to include: • interstate and overseas electors; • electors who are unwell, infirm or caring for someone; • electors experiencing homelessness or family or domestic violence; and • neurodivergent electors. This recommendation only expands electronic assisted voting to electors outside of Victoria based on a limited trial and not to other Victorians who also experience barriers to voting in elections The VEC notes that conducting a trial for electors outside of Victoria only during a by-election would produce a very limited sample size of electors and deliver unreliable findings. Electronic assisted voting through the VEC's telephone assisted voting service was delivered to thousands of electors at the 2018 and 2020 State elections, which already serves as a reliable baseline to measure the success of the service. The Report also suggests that the basis for the further use of electronic assisted voting should be the public response to the limited trial. It is apparent from the existing use of telephone assisted voting that the majority of those electors who used the service to vote were satisfied with the service provided and would recommend it to others. This recommendation supports equity for electors in this cohort by expanding access to electronic assisted voting under the Electoral Act. Although this recommendation extends access to electors located outside of Victoria, it is limited to a trial and the recommendation does not fully resolve recommendation 59 of the VEC's submission.

Report Recommendation	VEC Response
Recommendation 10.2: Amend the Electoral Regulations 2022 (Vic) to make Antarctic electors an eligible class for electronic assisted voting.	**The VEC supports this recommendation.** Together with recommendation 10.3, this recommendation partially resolves recommendation 59 of the VEC's submission. It supports equity for electors in this cohort by expanding TAV access. However, the VEC reiterates its recommendation 6 of the VEC's *Report to Parliament on the 2022 State election and 2023 Narracan District supplementary election* to improve equity for electors.
Recommendation 10.3: Amend regulation 52 of the Electoral Regulations 2022 (Vic) to allow the Victorian Electoral Commissioner to make an emergency Determination even if an 'emergency declaration' is not in force. That Determination would allow a specified class of electors affected by an emergency to access electronic assisted voting.	**The VEC supports this recommendation.** Together with recommendation 10.2, this recommendation partially resolves recommendation 59 of the VEC's submission and resolves recommendation 7 of the VEC's *Report to Parliament on the 2022 State election and 2023 Narracan District supplementary election*. It supports equity for electors in this cohort by allowing electors in an emergency to access voting. However, the VEC reiterates its recommendation 6 of the VEC's *Report to Parliament on the 2022 State election and 2023 Narracan District supplementary election* to improve equity for electors.
Recommendation 10.4: If additional classes of electors are made eligible for electronic assisted voting, the VEC should also have the power to provide those electors with electronic voting, if it considers that would be appropriate.	**The VEC supports this recommendation.** This recommendation resolves recommendation 60 of the VEC's submission. It supports consistency and equity by making the entitled cohorts to electronic assisted voting and electronic voting the same. The VEC reiterates its recommendation that given the potential for significant overlap between the 2 schemes should in-person technology eventually allow, the classes of electors eligible for electronic voting and TAV should be maintained consistently with each other.

Report Recommendation	VEC Response
Recommendation 10.5: Add a provision into the Electoral Act 2002 (Vic) that provides that an election is not to be held void due to the failure of an electronic assisted voting system, unless all of the following are satisfied: • as a result of the failure, voters were prevented from voting throughout the voting period • a recount has determined that an alternative result may have been achieved if those electors could have voted • as a result, the election result was likely to be affected.	**The VEC supports this recommendation in principle.** This recommendation has no corresponding VEC recommendation. The VEC acknowledges the Panel's intention to achieve consistency of electronic assisted voting through this recommendation. However, without further amendments, this recommendation may not be sufficient to cover election failure events due to a failure of electronic assist voting. The VEC notes that any prescription on the general considerations of the Court of Disputed Returns should be carefully considered alongside all relevant statutory and common law principles. If this recommendation is adopted, the express need for a recount to have been completed should be removed as a recount is not a necessary or reliable remedy to all kinds of election failure events.

VEC recommendations not adopted in the Report

In its submission to the Panel, the VEC made several recommendations which have not been recommended in the Report. The VEC repeats these recommendations below.

VEC recommendation	Response to Panel's considerations (if applicable)
VEC Recommendation 11 For the purposes of section 216 of the Electoral Act, the VEC recommends that the date on which a donation is made by the donor and received by the donation recipient is prescribed to be the date on which the donation is debited from the donor.	The Panel observed that a donation should generally be considered to have been made on the day that it is received by the recipient. The VEC considers that the date the donor made the donation should be taken as the most appropriate date for the transaction to be recorded. This will support greater simplicity for donors, an avoidance of doubt concerning transaction clearance time frames of any intermediaries, and prevent dates from being manipulated. The VEC notes that donors are unlikely to have visibility of when donations are received by the recipient, which means that where there is a delay between the making and receiving of the donation there will be varying dates disclosed to the VEC. This causes administrative difficulty in reconciling donations. The VEC also notes that donation recipients are likely to have visibility of when the donation was debited from the donor, even when there has been a delay in them receiving it. For example, bank receipts often provide the date of payment as the date the amount was debited from the person making the payment. This means that in most cases, there is a consistent date which is known to the donor and the donation recipient which could be used for the purposes of disclosing the donation. For the avoidance of doubt, the VEC reiterates its recommendation that the Electoral Act should prescribe that the date on which a donation is made and received is the date on which the donation is debited from the donor.

VEC recommendation	Response to Panel's considerations (if applicable)
VEC Recommendation 30 The VEC recommends that a subsection is inserted into section 222B of the Electoral Act to specify that a notice issued by a compliance officer under this section must be in the form prescribed by the regulations. The VEC then recommends that a prescribed form for a notice issued under section 222B of the Electoral Act is provided in the Electoral Regulations. *Note: A sample prescribed form was provided as an appendix to the VEC's submission.*	The Panel observed that prescribing a form of coercive notice may prevent a compliance officer from adapting a notice to suit any 'special circumstances' that may apply. The VEC's view is that special circumstances would be able to be managed through the prescribed form proposed in the VEC's submission. The VEC's view is that, as coercive notices are a legislative instrument under section 222B of the Electoral Act, it would enhance the legal standard and defensibility of those notices if they were uniformly prescribed by the Electoral Act. In addition, the sample prescribed notice provided by the VEC in its submission to the Panel would allow for free text to be entered, meaning that the notice would suit varying circumstances. The VEC reiterates its original recommendation that the form of a coercive notice under section 222B should be prescribed, in order to enhance the enforceability and legal standard of the notice.

VEC recommendation	Response to Panel's considerations (if applicable)
VEC Recommendation 42 The VEC recommends that provisions are inserted into subsection (8) of section 207F of the Electoral Act to require that after debts have been paid, any amount remaining in a SCA of an RPP that is de-registered under Part 4, or an NE, Associated Entity or TPC that is no longer such an entity, is to be paid to a charity nominated by the registered officer or agent of the entity (or the person nominated to acquit its obligations, if applicable). If implemented, there may be circumstances where an RPP would need to be exempted from surrendering its remaining funds, such as when an RPP is de-registered and begins operating as a TPC.	The Panel's view was that 'those bodies should be able to decide how remaining funds would be best spent, including how any preferences of donors who gifted those funds should be recognised.' The VEC reiterates its concern that this causes an inequality for independent candidates, independent elected members and groups. The Panel noted that 'an associated entity or third party campaigner might choose to pay its own funds into their SCA. It would be inequitable to force those bodies to lose those funds if their status under Part 12 of the Electoral Act changes.' The VEC notes that the recommendation 5.4 of the Report could be extended to apply to all persons and entities with an SCA to address this. If the Panel's observations are accepted and the VEC's recommendation is not adopted, the VEC recommends that the potential inequality created by this provision between endorsed candidates and independent candidates is addressed.

VEC recommendation	Response to Panel's considerations (if applicable)
VEC Recommendation 45 In order to effectively administer the political funding and donations scheme and monitor compliance, the VEC seeks legislative clarity around whether political expenditure must be paid directly from the SCA at the time of the transaction, or whether the SCA can be used to reimburse political expenditure paid directly from other sources. The VEC recommends that if an SCA may be used to reimburse political expenditure paid directly from other sources, robust record-keeping requirements also be put in place to ensure that the use of the funds can be clearly identified.	The Panel observed the current provisions of the Electoral Act to be sufficiently clear in relation to the making of payments out of an SCA. The VEC's view is that the Government should consider this matter further. The Panel's observations included noting that if a person or entity with an SCA wishes to use a credit card then that account should be designated as an SCA. The VEC's view is that this approach needs to align with the Panel's recommendation to limit what is able to be paid into an SCA. The Panel noted that for the reimbursement of petty cash expenses, the political expenditure should be taken to be made when the reimbursement is paid. As this is a grey area which is not directly addressed in the definition of political expenditure, the VEC reiterates its recommendation that a clarifying provision should be inserted into the Electoral Act. The VEC looks forward to working with the Government in relation to the various scenarios the VEC has observed, in order to develop an appropriately pragmatic solution that does not result in any unfair advantage or disadvantage between the different entity types.

VEC recommendation	Response to Panel's considerations (if applicable)
VEC Recommendation 50 The VEC recommends that for each and every donation, the recipient be required to: (1) outline the recipient and donor's respective obligations as part of the process of soliciting donations; and (2) notify donors individually and in writing of the need to disclose the donation when the donation is made; and (3) identify and advise donors of the individual donation amount and any aggregated amounts from the donor within the relevant financial year and election period. [...] The VEC also recommends that the Electoral Act be amended to require donation recipients to provide to the VEC a copy of the receipt issued to the donor, in a form determined by the VEC.	The Panel did not accept the VEC's recommendation on the basis that it was overly prescriptive. The VEC's view is that donor compliance with the 21-day disclosure timeframe would be increased through supportive legislative provisions. The objectives of this recommendation support the VEC's constructive compliance approach in trying to aid donors to understand and comply with their obligations under the Electoral Act. The VEC believes in working with donors to improve the rate of compliance. The VEC's view is that issuing a Determination would be an appropriate measure for prescribing the form of the disclosure notification form and its details.

VEC recommendation	Response to Panel's considerations (if applicable)
VEC Recommendation 52 The VEC recommends that an obligation be placed on donors and recipients to specify if the donation given or received is: • for State or Commonwealth purposes; and • to be used for political expenditure.	The VEC reiterates this recommendation. At present, the VEC incurs avoidable administrative burden in attempting to resolve whether a donation is for State or federal purposes, or political or non-political expenditure. This is an inefficient use of VEC resources and creates a loophole for reporting entities. For these reasons, the VEC recommends that donors be required to specify whether the purpose of a donation is for political expenditure or not, and whether it is for State or Commonwealth purposes. The Panel observed that donors may not mind how a donation recipient uses a donation, however this is contradictory to the definition of a political donation as it applies to associated entities and third party campaigners. The Panel noted that to be spent on political expenditure, donations must be paid into the donation recipient's SCA. However, the VEC notes that self-contributions to the SCA are unlimited and this could allow donation recipients to circumvent requirements and breach the general cap. The VEC requires this declaration by donors to monitor transactions to ensure they are compliant with the legislation. The VEC's view is that issuing a Determination outlining the content of receipts would be an appropriate measure in order to increase the enforceability of the donation disclosure scheme. Donors and recipients would be more informed of their obligations and the purpose of a donation given or received.
VEC Recommendation 53 The VEC recommends that a legislative amendment be introduced to specify whether expenditure, as used in Part 12 of the Electoral Act, is a GST inclusive or exclusive item and whether entitlement to input tax credits would have an impact on a recipient's funding entitlement.	The Panel did not accept the VEC's recommendation on the basis that GST is a matter of Commonwealth law. The VEC notes that this recommendation would not impact the GST scheme but would address the impacts of the GST scheme on Victorian political funding laws. The VEC emphasises that this is a matter that should be addressed through a change in the Electoral Act. There is an apparent lack of clarity within the Act regarding whether claimable expenditure is GST inclusive or exclusive that requires addressing in order for the Electoral Act to be clearer and more enforceable. It is the VEC's preference that this is a matter that is clarified through the legislation. The VEC's recommendation would reduce the likelihood of funding recipients being able to take advantage of reclaiming the GST component of political expenses from both the VEC and the Australian Taxation Office. The current provisions of the Electoral Act do not prohibit a funding recipient from undertaking this action.

VEC recommendation	Response to Panel's considerations (if applicable)
VEC Recommendation 59 The VEC recommends that the eligible class of electors entitled to access electronic voting as provided in section 110G be expanded to include: • [...] • electors who are unwell, infirm, or caring for someone who is unwell or infirm at the time of an election; • electors who are neurodivergent, including those who are hypersensitive to the types of stimuli that occur in and around in-person voting centres; and • electors who are experiencing homelessness, family or domestic violence at the time of an election.	The VEC reiterates this recommendation.