



Response to the Discussion Paper Amendments to the Local Government Act TAS

Introduction

Disability Voices Tasmania acknowledges and appreciates the opportunity to comment on the Discussion Paper on the review of the *Local Government Act 1993* (Tas), (the 'Discussion Paper'). Further, we acknowledge the support and assistance of COTA Tasmania and Blind Citizens Australia. This alliance has been campaigning for several years to encourage change to electoral principles to allow for disabled people to vote alongside their non-disabled peers. It is the obligation on all Australians to vote and this obligation should rest no less on disabled people.

About Disability Voices Tasmania

Disability Voices Tasmania is Tasmania's only cross-sector Disability Representative Organisation seeking to gain equality through driving change and promoting the human rights of disabled people in Tasmania. All of the staff, board and organisational members are disabled people who live in Tasmania. While Disability Voices Tasmania is funded to undertake projects that build capacity for Tasmanians with disability, all of our systemic advocacy work is conducted by volunteers.

Our Vision is a Tasmania in which people with disability understand our rights and where those rights and the dignity and opportunity of people with disability are respected and advanced.

Our purposes are:

- To **I**nform, **C**onnect, **E**mpower and **G**ive voice to Tasmanians with Disability:
- To strengthen and promote the individual and collective voices of people with disability.
- To strengthen and promote the economic, social, cultural, civil and political contexts that enable our contribution to community as equal and active citizens.

The Broader Perspective

Disability Voices Tasmania's overarching position is that all electoral processes conducted by the Tasmanian Electoral Commission ('the TEC') should be enshrined

in the *Electoral Act 2004* (Tas) ('the Electoral Act'). This would greatly simplify the process for all levels of government, the TEC and the Tasmanian community. This is a repeating theme throughout our response to the Discussion Paper.

Ensuring all electoral matters are dealt with through one piece of legislation would:

- simplify any current and future changes, meaning amendments to electoral processes need only be made once, through one legislative process;
- facilitate a greater understanding of electoral provisions for disabled Tasmanians, by creating one set of regulations governing a unified process, covering all potential elections conducted by the TEC; and
- make it easier for the TEC to understand its obligations and provisions for alternate voting procedures and other electoral matters – avoiding the possibility of these conflicting between Acts.

This does not prevent the *Local Government Act 1993* (Tas) ('the Local Government Act') from providing specific guidance and clarity about the provision of information, campaigns and other things dealt with in the paper. Simply, it would enable the Electoral Act to be the prime governing instrument for all elections, greatly simplifying the process for all.

Scenarios

Scenario A: change to voting in person as the primary means of participation

Move to universal attendance elections with a weeklong polling period, or a polling day, including an extended pre-poll period and postal voting for persons on the supplementary electoral roll.

Telephone voting would be made available for electors with barriers to participation or who are interstate or overseas.

Comments:

Some of the assertions in the Discussion Paper seem somewhat light on evidence. For example, the Paper suggests that the large fields of non-party aligned community candidates with less prominent public profiles 'can make it difficult for electors to make meaningful choices at a ballot box'. This is argued to be offset with postal voting as electors have the ballot paper and candidate information provided to them in their own home so they can work through it privately and in their own time.

As identified in the discussion paper, there are significant potential downsides to this approach. This includes:

- reduced number of polling places (compared to state general elections and federal elections); and
- likely lower voter turnout.

Reduced number of polling places

This is relevant to a comparison with state general elections and federal elections as there are not polling places for local government elections that have, since 1993, been conducted by postal ballot. The reduction in the number of polling places available would be due to availability for an extended polling period for example, schools not available for polling booths on weekdays, and cost constraints (having, as a result of limited availability, to hire specialist facilities in towns and cities).

One possible solution to the availability and costs argument is to consider the pros and cons of having a dedicated space within the local government offices where voting can take place. This is effectively what happened with the last local government elections to facilitate voting by people with print disabilities. It would, however, still be significantly more costly than retaining postal voting for most electors with effective accessible mechanisms available for electors with print disabilities and interstate and overseas electors. Further, accessibility of the local government offices to people living away from the relevant population centre would add to the burden on electors with limited mobility due to disability, age, cost, etc. The following table gives distances from towns within council areas to the local government offices. For people living on properties outside of towns and on the outer edge of the local government area, there are greater distances involved.

Council	Offices	Furthest towns
Central Highlands	Bothwell and Hamilton	Liawenee – 72 km from Bothwell Bronte Park – 82 km from Hamilton Derwent Bridge – 103 km from Hamilton
West Coast	Queenstown	Granville Harbour – 73 km Corinna – 87 km
Break O'Day	St Helens	Mangana – 59 km Mathinna – 83 km Upper Esk – 98 km
Kingborough	Kingston	Dennes Point – 44 km * ferry Adventure Bay – 64 km * ferry Cloudy Bay – 80 km * ferry

It is clear from this table that distance could form a significant barrier for in-person voting for people requiring it due to the inaccessibility of ballot materials provided for postal voting.

Likely lower voter turnout

This is asserted based on increased numbers of electors choosing to cast their ballot through postal or pre-polling options rather than attending a polling place on election

day. As such, this risk would arise if Scenario A, which includes in-person voting, were adopted.

Given the recent decision to make voting for local government compulsory, it is likely that this scenario would place greater demand on the TEC's resources, including following up on non-compliant electors.

Additionally, recent amendments to the Electoral Act make it clear that the TEC is empowered to undertake research into additional alternate procedures, having regard to their security and overall protection of the universal electoral franchise. It would be a mistake to limit, as the Discussion Paper suggests, alternate voting to telephone only. Again, refer to Disability Voices Tasmania's overarching position (above).

Scenario B: flexible additions to the status quo (a 'hybrid' model)

Provide for a 'hybrid' postal model where:

- all electors are mailed a ballot and candidate information pamphlet
- there is a minimum 4- week polling period, enabling the earlier return of postal votes
- there are more issuing places in each municipality, to enable the hand return of ballots by electors until the close of polls
- ballots may be returned to issuing places until the close of polls.

Telephone voting would be made available for electors with barriers to participation or who are interstate or overseas.

Comments:

Again, this option appears to result in higher costs due to the increase in issuing/voting places and the maintenance of providing a printed ballot and candidate information materials even to electors for whom this information is inaccessible. The main benefit of this option is the addition of telephone voting, but for this to be effective it should include clear mechanisms for pre-registration for telephone voting and the provision of all relevant materials in accessible electronic forms at the same time as the printed materials are distributed to people casting a postal ballot. (Please note, comments regarding telephone voting (above)).

A proposed third option: Scenario C: postal and telephone voting

An arguably simpler reform would be to maintain the current postal voting arrangements but add a mechanism to enable pre-registration for telephone or other accessible voting for electors with print disability and those located interstate or overseas at the time of the election.

For people with print disability, this could be a one-off registration that applies to all electoral processes conducted by the TEC.

Registered voters who are voting under the alternate voting procedures would be sent all of the electoral materials in their preferred accessible formats (noted at time of registration) and be given a PIN or some other security device to ensure integrity of the system when voting.

Non-registered electors would be provided with postal ballots in the usual way. This must not excuse the requirement for the publication of election materials on websites and other media, in accessible formats.

Technical reform proposals

1. A more flexible and accessible format for local government elections

Reform 1: reduce prescription in the statutory framework to enable the Tasmanian Electoral Commission to approve the electoral process.

Reform 2: enable the Tasmanian Electoral Commission to approve procedures for voting, including by telephone and electronic means, for interstate and overseas electors and electors with impediments to ordinary participation, or for other classes of person prescribed by regulation.

Disability Voices Tasmania supports these proposals but expressly notes that the provisions governing the conduct of local government elections are currently located in the Local Government Act. This means that mechanisms available in the Electoral Act to facilitate independent accessible voting are not automatically available in local government elections. It is likely that, as improvements are achieved in electronic voting mechanisms these mechanisms will become available for elections conducted under the Electoral Act, but separate amendments or processes would be required to make them available for local government elections.

While there may be specific aspects of local government elections that need to be contained in the Local Government Act, for example, spending limits and candidate statements, it would be beneficial to rely on the Electoral Act for all of the provisions relating to voting procedure and available mechanisms and discretion for the Tasmanian Electoral Commissioner ('the Commissioner') to permit new mechanisms. Please see our "Overarching Position" above.

Reform 3: legislate that the Tasmanian Electoral Commission is required to approve procedures in accordance with universal franchise principles, namely all electors,

including electors with additional barriers to participation, are to be afforded an opportunity to vote in an independent, secret and verifiable manner.

This principle is supported not only in respect of local government elections but also all elections conducted by the TEC. As such, the principles should be found in its governing legislation: the Electoral Act. There is currently no objects provision in the Electoral Act, nor any such guidance provided in the legislation on the exercise of functions under the Act.

We submit that this reform should be implemented in the Electoral Act. While the Electoral Amendment (Alternative Voting Procedures) Bill 2025 ('the current Amendment Bill') does contain an object for new Division 9A in Part 5, it is narrower in scope than Reform 3. It states simply that 'The object of this Division is to ensure that electors of all abilities and needs are reasonably provided with the opportunity to vote at an election'. It does not articulate universal franchise principles: an 'independent, secret and verifiable' ballot process for all electors. This right is clearly recognised under the United Nations *Convention on the Rights of Persons with Disabilities* ('the CRPD') and international human rights treaties.¹ As a party to the CRPD and other relevant treaties, Australia has a duty to promote, protect and fulfil the right to universal suffrage.

Reform 4: require the Electoral Commissioner to publish after each election a statement on the implementation of the accessibility principles, after information, including relevant statistics and initiatives undertaken to promote universal participation in the election.

Again, this reform is supported and should be applied to all elections conducted by the TEC. As such, this reform should be made to the Electoral Act, with amendments to the Local Government Act making it clear that all of the requirements and powers of the TEC and the Commissioner under the Electoral Act apply to local government elections. The Discussion Paper refers to the Electoral Bill requiring such a statement to be published. While it is not clear, we assume this means the Local Government Electoral Bill (not yet drafted) rather than the current Electoral Amendment Bill.

2. A better franchise for electors and changes to eligibility to run for office

Reform 6: move administration of the 'general managers' roll' from councils to the Tasmanian Electoral Commission, including administration of the process through

¹ Australia has been a party to the CRPD since 2007 and is a party to all major international human rights treaties.

which land occupier and corporate nominee (supplementary electoral roll) electors are to enrol.

This proposal is consistent with our general position that all electoral matters should be managed by the TEC and the Commissioner, so we support this reform.

Reform 10: provide that all intending candidates (other than incumbent councillors) must complete a prescribed program of pre-nomination training prior to their submission of a notice of nomination.

Disability Voices Tasmania supports this reform, noting the need to ensure that the program is fully accessible (as should be the nomination process). Further, it should include disability awareness developed and delivered in co-operation with disabled people.

3. Better quality public information at elections

Reform 11: require that the TEC provides all people submitting a notice of nomination the opportunity to provide a candidate information statement (in an approved format, providing prescribed information) and the Tasmanian Electoral Commission is to publish candidate information through appropriate means.

Disability Voices Tasmania supports this, with a clear requirement that full accessibility of the process and any information made available, is mandatory.

Reform 12: provide that the Director of Local Government may provide a statement to be published by the Tasmanian Electoral Commission alongside the candidate information.

We support this reform, again noting that accessibility is mandatory.

Reform 13: establish that nomination by a registered party is to be included in the information published by the Tasmanian Electoral Commission, and printed on the ballot paper, with the candidate's name to be printed alongside the name of the registered party.

No comment other than to require consistency across different forms of information provision, ie, any information should be included on the accessible electronic form of the ballot that is provided to voters using alternate means of voting, for their information. Such information may need to be modified for it to make sense in the context of electronic materials.

4. Strengthened donations disclosure and electoral advertising requirements

Reform 15: corresponding to the Electoral Act Review Final Report and the amended section 197 of the *Electoral Act 2004*, introduce new prohibitions on the dissemination of misleading and deceptive statements.

Broadly, DVT supports this, but as noted above, all such provisions should be found in the Electoral Act rather than having duplicate provisions in two different pieces of legislation.

It should be noted that the text in the Discussion Paper is the current wording of section 197 and this does not prevent misleading or deceptive statements at large, but only on very limited matters. It is important that those seeking to achieve prohibitions on misleading or deceptive statements in election campaigns or truth in political advertising understand that the current section 197 does not achieve this.

Reform 16: remove the general restriction upon a person, without the consent of the candidate or intending candidate, printing, publishing or distributing any electoral advertising that contains the name, photograph or a likeness of a candidate or intending candidate at an election; other than 'how-to-vote' material intended to instruct an elector in the completion of their vote.

Disability Voices Tasmania does not support this. The current Parliamentary Joint Select Committee on Electoral Matters inquiry into this amendment proposed to section 196 in the Electoral Amendment Bill 2024 will report on its inquiry and that should inform any discussion of such amendments. Section 196 provides a modest protection in its current form against misleading or deceptive conduct through misuse of a candidate's likeness or name. Until such time as a more effective provision (broader and with greater capacity for action within the election period) is developed, no changes should be made to section 196 or its equivalent provision in the Local Government Act. Again, we urge that all local government electoral matters be removed from the Local Government Act and dealt with in the Electoral Act.

Reform 17: clarify the definition of electoral advertising.

Disability Voices Tasmania agrees that this is required.

Reform 18: provide that only a candidate, intending candidate, or a person so nominated in the notice of nomination by a candidate, may incur electoral expenditure; and provide that expenditure by other persons to promote or procure the election of a candidate or intending candidate is an offence.

Disability Voices Tasmania broadly supports this reform.

Reform 19: institute authorisation requirements for electoral advertising and associated material.

We support this. This could be readily achieved by ensuring Electoral Act provisions apply to local government elections.

Reform 24: provide that it is an offence for a person other than a candidate or intending candidate to accept a gift or benefit for the purpose of promoting or procuring the election of a candidate, or for the dominant purpose of influencing the way electors vote in an election; and that it is an offence to make a gift or donation to a person other than a candidate or intending candidate for this purpose.

This is supported in principle but we wonder how the ‘dominant purpose’ might be determined.

5. Other changes to support the integrity of elections

Reform 26: provide that a local government election or by-election may not be held such that the polling period overlaps the date of a Tasmanian or Australian Government parliamentary election.

Disability Voices Tasmania supports this – but provision must be made such that if a ‘Snap Election’ is called during the lead-up or polling time of a local government election, the local government election will proceed at the earliest separate date.

Reform 27: provide the Tasmanian Electoral Commission with powers of investigation.

Disability Voices Tasmania supports this and notes that current provisions in the Electoral Act Amendment (Alternate Voting Procedures) Bill allow for this. These provisions could usefully be expanded to include other investigatory powers.

Reform 28: alignment of electoral offences and sanctions with the Electoral Act.

Clearly, Disability Voice Tasmania supports this, but it must be done through amendments to both Acts to make it clear that the Electoral Act provisions apply to all elections conducted in Tasmania, including local government elections.

Reform 30: provide that during the caretaker period, prohibit a council from making any major policy or financial decisions, namely decisions:

- relating to the appointment, reappointment, remuneration or termination of a general manager, other than a decision in respect of the appointment of an acting general manager under section 61B
- committing the council to expenditure greater than one per cent of general and service rating and fees and charges revenue raised in the preceding financial year, or \$100,000, whichever is the larger
- directing council resources in a manner intended, or likely to, influence voting at the election

- relating to a matter the council considers it could reasonably defer until after the election period, other than:
 - decisions relating to a matter the council is required to determine in that period under statute
 - decisions of a routine and operational nature.

We support this reform.

Reform 31: provide that during the caretaker period, it is an offence for a council to:

- publish any material in any format which promotes any candidate or group of candidates for election, or otherwise seeks to influence voters in the election
- publish material in relation to the election other than information to promote participation in the election and in relation to election process, or other material of a kind published by the Electoral Commissioner
- make resources available to the advantage of any candidate, which are not equally available to all candidates for election.

Disability Voices Tasmania supports this but we question who would be the determining authority of infringement of this and how the infringement might be determined.

Reform 32: provide that major policy or financial decisions of a council during the caretaker period are of no effect and provide that persons who incur loss or damage due to an ineffectual decision of a council, who acted in good faith, are entitled to recover compensation from the council.

Disability Voices Tasmania supports this.

Reform 33: increase the proportion of electors signing a petition required to compel a council to hold an elector poll to 20 per cent; while restricting the matters about which an elector poll may be held to matters with a legitimate connection to the exercise of a council's functions or powers or to the incorporation of the council, as determined by the council.

While the rationale for this proposed reform is clear, it has the potential to disadvantage marginalised communities with limited voice to achieve an elector poll on a matter of significant concern to that community. While the cost of such polls is significant, it would be appropriate to consider other mechanisms to compel councils to consider the impacts of their decisions on marginalised communities.

Incapacity

The Local Government Act includes a clause relating to 'incapacity'.

28J. Incapacity

- (1) A prescribed person may apply to a magistrate for an order that a councillor is unable to perform or exercise adequately or competently the functions or powers of a councillor due to the physical or mental incapacity of the councillor.
- (2) The magistrate may –
 - (a) grant the order; or
 - (b) refuse to grant the order.
- (3) If the magistrate grants the order –
 - (a) the councillor is removed from office with effect from the date of the order; and
 - (b) the office of the councillor is vacant as at that date.

The clause should not contain the words 'due to the physical or mental incapacity of the councillor'.

Disability Voices Tasmania contends that this clause should be removed or amended. If amending, it must allow that people with intellectual or physical disabilities have an inalienable right to become local counsellors, and that in the first instance, reasonable adjustments should be made as would occur in any workplace on the basis of disability. Any order removing a counsellor under this clause must contain clear evidence that all avenues have been undertaken to support the counsellor prior to the order being sort or granted. At the very least such an order should be signed off by the Chief Magistrate.

Other matters

Disability Voices Tasmania submits that, despite having the highest incidence of disability in Australia, Tasmania does little to encourage or enable disabled people to be a part of governing bodies. Useful provisions could be inserted into this Act to this end – promoting programs designed to increase the number of elected members at all levels of government who identify as disabled people. These provisions should be co-designed with the disability community and local government elected members.

Disability Voices Tasmania encourages all local government authorities to develop instruments to encourage the full inclusion and participation of disabled constituents. Notably, under the *Disability Rights, Inclusion and Safeguarding Act 2024* (Tas), local government authorities are excluded from the need to develop Disability Action and Inclusion Plans. Provisions could usefully be inserted into the Local Government Act to ensure councils follow through on their responsibilities to their disabled constituents ahead of potential future amendments to the *Disability Rights, Inclusion*

and Safeguarding Act which might see a heavier burden of responsibility placed on local government authorities. Note, these provisions should include resourcing for smaller or disadvantaged local government authorities.

Conclusion

Disability Voices Tasmania notes the work undertaken by the Working Group established by the Tasmanian Electoral Commission to develop recommendations informing the Discussion Paper. Further, we acknowledge and thank the working group members and other community members who have worked with us to prepare this response.

We acknowledge the significant reform that our comments represent but argue that it is necessary for all Tasmanians to be able to exercise their human right to participate in the democratic electoral process. Local government members are elected to govern entire communities, and entire communities must be responsible for voting for the candidates who best reflect their thoughts, views and beliefs.

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