



HUON VALLEY COUNCIL

HUON VALLEY COUNCIL COMMENTS DISCUSSION PAPER LOCAL GOVERNMENT ELECTORAL BILL

Thank you for the opportunity to make a submission on the Local Government Electoral Bill Discussion Paper.

The Council supports the development of specific local government legislation for elections and the matters proposed as reforms properly represent matters to be contained in that legislation.

Please see the Council's responses and submissions below in relation to each reform and thank you for consideration of this submission.

CONSULTATION ISSUE	COUNCIL COMMENT AND SUBMISSION
The future format of local government elections in Tasmania	
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.	This is not the preferred scenario. The discussion on this matter clearly demonstrates that voters are moving away from the voting on one particular day and looking for various methods to vote.
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 four 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.	This hybrid model is supported. Whilst electronic voting may not be ready at this current stage, the reform should include the ability to vote electronically online as well. This will significantly reduce cost to the extent that the voting can be completed without leaving home and incurring cost for the voter to get to a post office or deliver to the local Council and incurring postage costs for Councils. The vote count is almost immediate when it comes to the close of the polls for those made electronically reducing counting time.
Potential new directions: who should vote in local government elections, and how should we elect the deputy mayor?	
Reforming the franchise: should non-citizens enjoy a continuing entitlement to vote at local government elections? If this entitlement were to continue, it is proposed a person’s ordinary place of residence must have been in Tasmania for the 12 months prior to making an application for enrolment (or otherwise must own property in Tasmania in a personal capacity).	Retention of voting rights for non-citizens that own property (and therefore pay rates) is supported. Extension of voting rights beyond ownership is not supported as it can be subject to abuse particularly in transient populations such as overseas students and workers.

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Reforming the entitlement to nominate as councillor If an entitlement for non-citizens to vote is preserved, require that a person must appear on the House of Assembly electoral roll to be eligible to hold the office of councillor, in addition to appearing on that roll or the supplementary electoral roll at an address in the municipal area.	This is supported.
Remove the direct election of the deputy mayor Instead, the councillors are to elect the deputy mayor at the first ordinary meeting of the term of the council. Otherwise, the role of deputy mayor could be removed entirely or made optional in favour of provision for acting mayors, including supplementary allowances.	The proposal for the removal of direct election of the Deputy Mayor not be supported. The removal of this election removes a process of democracy for electors to decide on who their elected officials are to be.
LOCAL GOVERNMENT ELECTIONS: TECHNICAL REFORMS	
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.	This is supported.
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.	This is supported.
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 is supported.
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.	This is supported.

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2. A better franchise for electors and changes to eligibility to run for office	
Reform 5: increase the number of elector signatures required to support a notice of nomination to the lesser of 30 or one per cent of the number of electors in the municipal area.	This is supported however the number must be certain. That is simply 30 rather than at least 1% as the point in time that this is to be determined will need to be clearly defined. As Electoral Rolls close during the nomination period the number may not be known until too late.
Reform 6: move administration of the ‘general managers’ roll’ from councils to the Tasmanian Electoral Commission, including administration of the process through which land occupier and corporate nominee (supplementary electoral roll) electors are to enrol.	This is supported. How information is verified between the Electoral Commission and Council will need to be considered in detail to ensure that enrolments are accurate.
Reform 7: provide a definition for the purposes of ‘occupier’ of land that establishes an occupier holds a leasehold interest or licence over land, and/or the person’s ordinary place of residence is in the municipal area.	This is supported.
Reform 8: provide that a person seeking enrolment on the supplementary roll must complete a land occupier declaration and provide documentation of the leasehold or licence over land, or evidence of their period of residence in Tasmania to the satisfaction of the Commissioner.	This is supported.
Reform 9: implement the ‘one person, one vote’ principle and require a nominee of a corporate landowner or occupier of land may nominate one natural person who is an officeholder of the company to be its nominee.	This is supported.
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.	This is supported and discussed in depth as part of the Future of Local Government Review. Candidates should also be aware of what the roles and functions of Councillors are so they can address these in candidate information statements and remove the focus on promises and commitments that candidates simply cannot deliver upon if elected.
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	This is supported.

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information statement (in an approved format, providing prescribed information) and the Tasmanian Electoral Commission is to publish candidate information through appropriate means.	
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.	This reform is not supported as it provides the opportunity for the Director of Local Government to be seen to be influencing an election outcome. Whilst the information may well be objective, there are opportunities for error that may result in one candidate being shown in a less favourable light to others simply because of actions whilst being as a Councillor as opposed to a candidate that may not have been a Councillor before but may not have a good record publicly that the Director cannot be commenting on. It should be a general principle of democratic elections that there is no government interference, perceived or otherwise in an election.
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.	This is not supported. Whilst the principle of using this as a public information measure is understood, formalising party politics into local government elections will result in a focus on party affiliations rather than a candidates skills and abilities to perform the roles and functions of Councillors. The Future of Local Government Review has focused on good governance principles, consensus decision making and clear roles and functions for local government on community and community wellbeing. Candidates and successful Councillors will require mandated training for their roles. The proposed reform has the potential to take the focus off a candidate's ability to perform the roles and simply focus on the party representation. Given the focus of Local Government on the community, this reform has the potential to encourage party politicisation of local government and development of pseudo governments and oppositions in Councils. This is

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	contrary to the direction of the Future of Local Government Review outcomes.
Reform 14: provide for candidates whose nomination form is not lodged by a registered party to request to be identified with a group name.	This is not supported for the same reasons discussed in Reform 13.
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 <i>Electoral Act 2004</i> , introduce new prohibitions on the dissemination of misleading and deceptive statements.	This is supported.
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.	This is supported on the basis that reforms 17, 18 and 19 are instituted.
Reform 17: clarify the definition of electoral advertising.	This is supported.
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.	This is supported.
Reform 19: institute authorisation requirements for electoral advertising and associated material.	This is supported.
Reform 20: replace advertising expenditure limits with a general expenditure limit, with reference to the expenditure limit for Legislative Council elections under the <i>Electoral Disclosure and Funding Act 2023</i> .	This is supported.
Reform 21: require that a candidate is to report expenditure made on their behalf in their electoral expenditure return, in the same manner as personal expenditure. The present requirement to attribute, in full, to each candidate so featured the value of	This is supported.

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advertising featuring multiple candidates (for instance, multiple party candidates) will be retained.	
Reform 22: prohibit any person from incurring any expenditure for or on behalf of a registered party with a view to promoting or procuring the election of a candidate or intending candidate.	This is supported.
Reform 23: maintain the \$50 threshold for the disclosure of gifts and benefits and extend this requirement from incumbent councillors to all candidates, who will be required to lodge two candidate donation returns with the Tasmanian Electoral Commission. The new Bill will also require the publication of initial donations disclosures on the Commission's website during the polling period and until the certificate of election.	This reform raises 2 issues. The first issue is in relation to current sitting Councillors and gifts and donations. This is adequately addressed in the <i>Local Government Act 1993</i> and is not an election bill matter. The second issue being the reform in respect of candidates is not supported. The role of a Councillor through the Act and supporting Codes of Conduct and conflict of interest provisions are to represent and make decisions for the community. Accepting of any donations can lead to perceived conflict in the future that is captured under the Code of Conduct. The Act should not facilitate potential breaches and the ability to receive any donations is questioned. The provision should be absolute, that is, a candidate may not accept any donation. If the proposal progresses then details of all donations ought be disclosed for transparency and to meet the proposed principles of good governance in the targeted review of the Local Government Act.
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	This is supported.

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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.	
Reform 25: provide that it is an offence for a councillor, intending candidate or candidate, at any time, to accept a donation for the purpose of promoting or procuring the election of a candidate or intending candidate at a local government election: • over \$50, including services or goods valued in kind, without recording the basic details of that donor • over \$50 in cash	This is supported though the reform does not go far enough. There should be a general prohibition on receiving donations - See Also comments in Reform 23.
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.	This is supported, however, provisions must be made for circumstances where ongoing vacancies may result in a Council not having a quorum to conduct business and meet the requirements of the <i>Local Government Act 1993</i> or other Acts.
Reform 27: provide the Tasmanian Electoral Commission with powers of investigation.	This is supported.
Reform 28: alignment of electoral offences and sanctions with the Electoral Act.	This is supported.
Reform 29: provide a statutory caretaker framework, applying from the notice of election to the date of the issue of the certificate of election for all elections other than by-elections and countbacks.	This is supported.
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	This is supported. It is important that a Council is not unreasonably restricted or prohibited from continuing the necessary business of the Council, such as being able to continue with Annual Plan implementation as funded and approved within the budget including the awarding of Tenders relating to that budget. See the Huon Valley Council's current Policy as an example at: www.huonvalleycouncil.sharepoint.com/sites/hvcwebsite/Reports%20and%20Publications/Forms/AllItems.aspx?id=%2Fsites%2Fhvcwebsite

CONSULTATION ISSUE	COUNCIL COMMENT AND SUBMISSION
- 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.	%2FReports%20and%20Publications%2FPolicies%2FElection%20and%20Caretaker%20Period%20Policy%20-%20GOV-CORP%20021%2Epdf&parent=%2Fsites%2Fhvcwebsite%2FReports%20and%20Publications%2FPolicies&p=true&ga=1 This Policy takes into account a definition of Major Policy Decisions and ensures ordinary business of Council continues. It is questioned why this would be in an elections Bill and should be in the <i>Local Government Act 1993</i> as it directly relates to the decision making activity of the Council.
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	This is supported. Council funds should not be used to support any individual Councillors. The proposed offence for a Council to “publish material in relation to the election” may be problematic. Councils regularly promote elections and the manner in which people can vote and participate. It is not simply the role of the Electoral Commission to do this. Council must be able to continue to provide and publish this material. This dot point must be clearly defined to outline the specific material otherwise Councils will not promote participation in elections.
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.	To the extent that such a provision is made this should be in the <i>Local Government Act 1993</i> and not in the elections bill as it directly relates to the decision making activity of the Council.
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	This is supported.

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functions or powers or to the incorporation of the council, as determined by the council.	There is a significant amount of internal administrative work associated with dealing with and assessing petitions for compliance with the Act that is not accounted for at all. The additional costs associated with Elector Polls, as demonstrated in the Discussion Paper with recent polls at both Hobart City and Clarence Councils are hard to justify in what ended up being hypothetical questions either outside of the control of the Councils or in the end did not eventuate. Elector Polls must have a legitimate connection to the exercise of the Council's functions or powers.