

7 April 2025

Michael Mogridge
Acting Executive Director
Office of Local Government
Department of Premier and Cabinet
Via email: lg.consultation@dpac.tas.gov.au

Dear Michael,

Local Government Electoral Bill Discussion Paper

Thank you for the opportunity to provide a submission on the Local Government Electoral Bill Discussion Paper. This submission has been prepared by the Local Government Association of Tasmania (LGAT) on behalf of our members, all 29 Tasmanian councils.

LGAT is incorporated under the *Local Government Act 1993* and is the representative body and advocate for local government in Tasmania. Where a council has made a direct submission to this process, any omission of specific comments made by that council in this submission should not be viewed as lack of support by the LGAT for that specific issue.

Local government is supportive overall of the local government election reforms. Councils have made their positions clear a number of times in recent years: in the 2018 Local Government Act review, the review of the 2022 local government elections and the Future of Local Government Review. The sector welcomes a new electoral framework that is more responsive to today's challenges.

We look forward to continuing to work collaboratively with the Tasmanian Government and key stakeholders on the development of the draft Bill.

Please contact Ben Morris, Policy Director, if you have any questions or would like further information, at ben.morris@lgat.tas.gov.au or 6146 3743.

Yours sincerely,



Dion Lester
Chief Executive Officer

LGAT Submission: Local Government Electoral Bill Discussion Paper

Introduction

A robust and transparent local government election framework is particularly essential for local democracy. Councils are the closest level of government to the community, so the framework needs to make sense for communities and for the leaders that put their hand up to represent them. The proposed framework provides stability, and at the same time brings new flexibility to respond to today's needs.

To support our submission, we engaged with councils through forums with Mayors and General Managers/Chief Executive Officers in Hobart and Devonport and received direct council feedback and submissions.

Future format

Conducting elections

Councils recognise the need to change how local government elections are conducted given the current and ongoing changes to the postal system. The overall view of the sector is that a hybrid approach is the best model at this time. There was limited support for in-person only voting, provided that the polling period was one day.

There will need to be careful consideration of the returning locations for ballots, as in many cases, council offices or other council facilities may not be appropriate from a ballot security perspective. Consideration should be given to using Australia Post offices to augment council returning places given their broad distribution. Attention is also needed on the mechanisms for re-issuing of lost or misdirected ballot papers so that these are secure and timely.

It will be important that training is provided to local government staff, and other election delivery partners, to support consistent, robust and secure elections.

Councils will continue to monitor the development of electronic systems for State and Federal elections and look forward to taking these up when they are secure, cost effective and accessible.

Non-citizen voting

There were mixed views amongst councils. Some councils supported the continued entitlement for non-citizens to vote in local government elections where they have been resident for the 12 months prior. One council suggested that this should be limited to those non-citizens that own property and therefore pay rates.

Other councils held the alternative view that eligibility should be aligned to State and Federal requirements.

Entitlement to nominate as a councillor

There was support for the differential requirement that people nominating as councillors are Australian citizens, or British subjects eligible to vote in parliamentary elections.

Direct election of the deputy mayor

The standing role of Deputy Mayor is seen as being very important to provide stability for councils' governance. Having one person in the role allows that individual to build their capacity to act as the Mayor when required, through participation in relevant professional development, such as meeting chairing and procedures.

Councils do not support changes to the current direct election of Deputy Mayor. Councils noted that the current system works well and removing this may reduce the community's democratic voice. Changing the process of appointing a Deputy Mayor creates new and different risks for a tested and robust approach. Councils believe that the cost for conducting this election is warranted given the benefits.

We note that neither the community nor councils supported this reform in the 2018 Local Government Legislation Review.

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 reform was supported by councils.

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 reform was supported by councils.

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 reform was supported by councils.

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 reform was supported by councils.

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. The reform, as proposed, was not supported by councils.

A number of councils supported 10 nominators, as is required for the Tasmanian Legislative Council. While others said to leave it at two nominators.

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 reform was supported by councils.

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 reform was supported by councils.

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 reform was supported by councils.

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 reform was supported by councils. It was noted the changes would provide a clear connection to the body corporate office holders.

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.

Councils did not support mandatory pre-nomination training.

Local government supports the intent for intending candidates to be better informed on the role of councillors and local government generally to reduce issues arising should they hold office. Councils are also strong supporter of ongoing learning. Equally, councils are champions of democracy and are wary of the risk that this reform creates a barrier for candidates. This may be particularly the case for those from culturally and linguistically diverse communities, or with specific accessibility needs.

It is proposed rather than mandatory ‘training’, candidates could be required to declare if they have reviewed an optional information package. This package would be designed to support understanding of the role of councillor and council and would be delivered in different forms, such as written information, video, or audio.

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.

This reform was supported by councils.

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 was not supported.

Councils identified the risk that this may impact on the bearing of an election where there is comment made about a council which impacts on votes for re-standing councillors.

The intent of this reform may be achieved in other ways such as the promotion at the time of the election of the proposed council dashboard or other information.

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.

There was a split amongst councils in their support for this reform.

Opposing councils noted that a vote should be for the individual and their ability to be part of the council 'team', rather than for a party. This reform may undermine that principal.

Reform 14: provide for candidates whose nomination form is not lodged by a registered party to request to be identified with a group name.

The split in support mirrored that of reform 13.

One council noted that this reform may give an undue higher profile to a single-issue candidate for a role that requires broad interest and collaboration.

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.

This reform was supported by councils.

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.

Overall, this reform was supported, provided the mooted protections in the Discussion Paper are robust. A council with an opposing view highlighted that removing this restriction increases the risk of negative advertising and campaigning.

Reform 17: clarify the definition of electoral advertising.

This reform was supported by councils.

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 reform was supported by councils.

It will be important that the Bill manage the risks that expenditure is incurred by an unauthorised party and the unaware candidate is liable.

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

This reform was supported by councils.

Reform 20: replace advertising expenditure limits with a general expenditure limit, with reference to the expenditure limit for Legislative Council elections under the *Electoral Disclosure and Funding Act 2023*.

This reform was supported by councils.

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 advertising featuring multiple candidates (for instance, multiple party candidates) will be retained.

This reform was supported by councils.

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 reform was supported by councils.

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 was generally supported by councils.

One council suggested that no donations should be allowed, while another suggested lifting the threshold to \$100 due to the administrative and reporting burden.

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 reform was supported by councils.

It was noted that it is important that the liable party is appropriately identified, as the candidate may not have authorised such gifts or benefits.

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
- over \$50 from a foreign donor.

This reform was generally supported by councils.

One council suggested that all donations be prohibited, while another suggested lifting the threshold to \$100.

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 reform was supported by councils.

One council noted that it will be important that provision is made to manage the risk with not having a quorum to conduct business and meet the requirement of the *Local Government Act 1993* and other Acts.

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

This reform was supported by councils.

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

This reform was supported by councils.

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 reform was supported by councils.

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

This reform was supported by councils.

Some councils noted that their existing Election and Caretaker Policies make explicit that they can continue with council business such as already determined in an Annual Plan or Budget. This will be an important distinction to make, so as not to hinder already committed work.

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.

This reform was supported by councils.

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.

This reform was supported by councils.

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.

There was broad support from councils for a focusing of the matters that may be subject to an elector poll, including excluding any matters regarding the Planning Authority.

Two councils thought the 20 per cent threshold was too high, with one proposing 10 per cent and another calling for the 5 per cent to be retained.