

**Electoral Reform Green Paper**  
**– Strengthening Australia’s Democracy**

**SUBMISSION**

FROM: Bruce Taylor, Tasmanian Electoral Commissioner

I offer the following comments on the questions provided for discussion in Chapter 15.

**Chapter 2: Standards, qualities and expectations**

- 2(a) no comment offered
- 2(b) no comment offered

**Chapter 3: The legal framework for elections**

- 3(a) no comment offered
- 3(b) Electoral laws should be sufficiently prescriptive to set out those important features and principles that are required.

They should not be so detailed that they prevent electoral procedures being able to keep up with modern practice, modern wording, and modern systems such as the level of computerisation.

- 3(c) Flexibility should be available within the constraints of the clear principles required under the legislation. Flexibility should not be provided to change the fundamentals of our electoral system, such as the franchise, who may nominate, counting system, funding and disclosure and offences, without reference to parliament.
- 3(d) It is very important that electoral laws are able to be understood by the cross-section of participants in the electoral process. They must therefore be written using clear simple and plain English. This may in some cases mean using more words to clearly set out the meaning of the provision. There must be a clear legal meaning to electoral laws but this should not necessarily mean having to use accepted legal terminology which may have a specific meaning in law but is not so clear to all participants in the process.

## Chapter 4: The franchise

- 4(b) Non-citizens who are owners or occupiers of land have the right to vote in Tasmanian local government elections.
- 4(g) It would be preferable to have a uniform franchise across Australia. There may need to be additional voting rights for local government.

## Chapter 5: Representation and voting systems

- 5(c) This would give greater transparency to the voter, in how their vote would count.

## Chapter 6: Electoral management bodies

- 6(g) Section 10 of the Tasmanian *Electoral Act 2004* provides an important basis for the independent conduct of elections in Tasmania.
- 6(h) The Tasmanian situation provides an interesting model for cooperation between the AEC and a state electoral body. The Tasmanian Electoral Commission retains authority and control of Tasmanian elections while subcontracting those operational aspects of elections which the AEC is in a good position to manage with its permanent divisional office structure. In this situation, rather than see the TEC employing casual returning officers, the TEC contracts with the Australian Electoral Commission for commonwealth divisional returning officers to be appointed as returning officers for one or more state or Tasmanian local government elections.

Under this system the state retains control of the jurisdiction while having access to a trained and competent workforce.

The TEC also contracts with the AEC for all AEC offices across Australia to issue pre-poll votes.

## Chapter 7: Enrolment and participation

- 7(a) no comment offered
- 7(b) I support moves towards automatic update of enrolment details through information provided by appropriate sources. I believe the standards required for first enrolment need to be higher. I believe it is important that people not be unnecessarily removed by objection action from the roll when we have evidence that they are still living in Tasmania and entitled to vote.

The TEC supports further investigation of options for online enrolment or update. However, there are security and privacy issues which need to be addressed or overcome prior to introduction -- probably in the medium term.

7(c) The integrity of the source information is of vital importance and probably is best addressed by introducing one source at a time and clearly checking the integrity of the data provided including the accuracy and timeliness of such data. It would also be necessary to advise a person on the roll if at any time the details are changed by such automatic action. The issues of integrity of online enrolment are much wider and I will not attempt to address them at this stage.

7(d) While the TEC is generally a supporter of principle-based legislation, I believe that enrolment is fundamental to the electoral process and eligibility must be prescribed in legislation.

The method of enrolment could then be clearly set out in legislation or in a power given to the Australian Electoral Commission to approve specific methods.

It is important that methods are clear and precise, or whether prescribing legislation or approved by the AEC, to ensure that the electoral roll does not leave elections open to challenge on the basis of the roll.

7(e) Proof of identity could be required only when enrolling the first time. This could also mean one form for first enrolment and another form for update.

One of the current deterrents to enrolment is the size and complexity of the existing enrolment form. For most people, those having a driver's licence, the form is relatively simple and only requires the first page to be completed. For others, the relevant sections of the form are not that complex but do require lists of types of people and overall appear to be complex.

One option would be to have a form for persons that have a drivers licence, and a different form for use by other persons. The forms would then look less daunting and may assist in increasing enrolment.

There may also be a range of forms used by other approved organisations which would comply with one or other of these simpler forms.

7(f) no comment offered

7(g) no comment offered

7(h) I am happy with the current Tasmanian legislation which provides between 5 and 10 days notice before rolls close.

Enrolment on polling day would lead to considerably more administrative work in polling places and hence would have implications for cost and provision of additional staff and preferably computer support.

It would also detract from the transparency of the roll and the availability of accurate statistics for redistributions.

PDA handheld computers have been used for Tasmanian upper house elections for the past three years and have been well accepted by electors and polling place staff. These computers were stand-alone and each contained a copy of the roll for the election.

For the 2010 House of Assembly election, we will be using notebook computers to replace all printed certified lists. Each computer will contain the rolls for all five divisions in the state and polling place officials will be able to issue ordinary votes for Tasmanian electors from any division. This will considerably reduce the cost and workload involved in dealing with declaration votes and ensure that more electors are able to correctly vote for the division they are currently enrolled in. The use of these computers has potential in the future to be connected to a central roll and to ascertain the current enrolment status of any elector if they are permitted to change their address on polling day.

- 7(i) I believe that a single enrolment card for federal state and local government elections is of fundamental importance to allow people to exercise their voting rights at all levels of government. I believe that it is also more efficient and practical to have a single roll managed by one authority. These aims are reflected in the current Tasmanian *Electoral Act 2004* in that, with only minor exceptions, a person enrolled on the Commonwealth roll is taken to be enrolled on the state roll.
- 7(j) I don't believe there are significant problems with releasing basic name and address information to the range of persons or organisations currently provided. Date of birth, however, is an important identifier for persons for a range of personal and financial dealings. Date of birth should therefore only be provided where there is a significant need and where the data will be securely maintained for the intended purpose only. I do have concerns that federal members of parliament and political parties are provided with date of birth information. There would not seem to be an appropriate need for specific date of birth to be provided and if there is a case for basic demographic data to allow parties and members to more appropriately target political material then it may be appropriate and sufficient to provide five or ten year age groups. I note that currently Tasmanian members and parties only receive name and address information. There have been occasions where the use of date of birth for sending birthday cards has drawn criticism from electors. It also makes it more difficult for the Tasmanian Electoral Commission to restrict access to date of birth in particular when it is provided to federal members and parties.

## Chapter 8: Registration of parties, and candidate nominations

- 8(a) The system of registration of political parties in Tasmania appears to work well, has not drawn recent criticism, and provides a balance between ease of registration and allowing frivolous groups to register. The system also

provides for the review of existing political parties to ensure that they still retain the appropriate level of support or otherwise they may be deleted from the register.

- 8(b) no further comments
- 8(c) I believe it will be difficult to harmonise party registration arrangements given the different size of various jurisdictions. I don't believe it is appropriate to automatically enrol all federally registered parties for state purposes as this could lead to a large increase of parties on ballot papers that do not have a support base in the particular state or territory.
- 8(d) The system of nomination in Tasmania was amended, following public consultation, with the introduction of the new Electoral Act in 2004. This appears to be well accepted and has received no criticism.
- 8(e) no further comments
- 8(f) no comment offered
- 8(g) The TEC currently uses a computerised nomination system for internal processes once the hard copy nomination form has been received. Other than receipt of nomination by facsimile or a scanned image attached to an email, I do not believe it is appropriate or of significant benefit to receive nominations by other electronic means.

## Chapter 9: Education for electoral participation

- 9(a) I believe that electoral education programs are important and that unfortunately the approach has at times been ad hoc given other workloads and resources. A number of good programs have been developed by the AEC and other states, and I believe more work should be done on harmonising our approach to education on voting across the three levels of government.
- 9(b) I believe electoral education should be mandatory in all Australian schools within the civics curriculum. With the move to national curricula there is an opportunity to establish this nationally. Currently some schools do a good job in this area but it often depends on particular teachers.
- 9(c) This is a complex area and more research needs to be done on how best to reach these disparate groups. I think the most important issue is ensuring ease of access to both enrolment and voting. Obviously education helps but unless there is a strong desire to vote, unless we make access as easy as practicable, it will not be the highest priority for such groups.
- 9(e) no comment offered

## Chapter 10: The campaign

- 10(a) I do not have a firm view on the need to regulate the new media as policing the internet as a whole would seem to be extremely difficult or impossible. That said, we could regulate major websites, for example, those connected to newspapers or radio or television stations. The advent of the media commentary from web users is perhaps most concerning as unverified and extreme comments often appear without any clear source or authorisation. However, there seems little point in trying to police these websites unless we have clear rules and means of enforcement.
- 10(b) no comment offered
- 10(c) no comment offered
- 10(d) no comment offered
- 10(e) Probably not, because the difference between an untruth and a legitimate opinion will never be completely clear.
- 10(f) Canvassing or soliciting for votes is prohibited within 100 metres of a polling place at Tasmanian parliamentary elections. This rule appears to be accepted in Tasmania and allows electors to easily and calmly access polling places and is fair for candidates and parties.
- 10(g) Tasmania has a range of provisions which limit the use of how-to-vote cards and I would hope these would be respected in a harmonised environment.
- 10(h) I favour introduction of uniform requirements for authorisation of campaign material as this would assist candidates, parties and the media in ensuring compliance.

## Chapter 11: Polling

- 11(a) It is reasonable to expect that in today's highly mobile community and with seven day trading meaning that many more in the workforce are working on Saturdays there will be a greater demand for early voting. I believe it is important that electors are required to declare at least that they are expected to be unable to vote on polling day.

While electors should have easy access to early voting and in particular information about how to vote early, it may not be appropriate to continue the practise in some states where all electors are canvassed with both how to vote material and postal vote application forms. This may tend to lead people to believe they have a right to a postal vote if they choose rather than needing to vote by post.

The Tasmanian Electoral Act in section 171 provides that it is an offence to fail to immediately post or deliver a postal vote application or declaration envelope that he or she has been entrusted with by an elector. I believe this section prohibits parties or candidates from providing envelopes addressed to the party or candidate for their administrative purposes. This practice should be discouraged as in some jurisdictions it currently leads to significant delays in issuing postal votes and can lead to some electors missing their opportunity to vote.

11(b) I am not fully aware of current postal voting processes for federal elections and cannot comment other than to say that delays in issuing postal votes at recent elections must be addressed. Speaking from a small state I believe that centralising such large operations does not always assist in fast and accurate processing.

11(c) We support the use of electronic voting to assist special needs voters such as those with vision impairment, and those in the Antarctica, overseas or other remote areas. Electronic voting must be introduced in such a way that it is accepted and understood by electors and is transparent and able to be vetted by scrutineers.

That said I do not believe that electronic voting directly into computers provided by electoral commissions is currently financially viable and electronic voting by means of the internet does not have sufficient safeguards at present, however electoral commissions should continue to research and trial new technology as it becomes available.

11(d) Multiple voting is currently not a significant problem at Tasmanian elections. Of the few cases identified, most are due to old age or medical conditions. The extremely rare deliberate case appears to be for idiosyncratic reasons.

That said, as wireless technology improves it will soon be practical to use netbook computers as certified lists in polling places and to have those connected back to one electoral roll. The issuing officer will then know if a ballot paper has been issued in that name anywhere else and in this situation the voter would be required to provide a provisional vote. If the signature on the provisional vote was correct it would need to be admitted and an assumption made that the other vote was incorrectly marked.

I have no problem with our current rules regarding the casting and counting of provisional votes, but note that commonwealth rules are more restrictive.

11(e) no comment offered

11(f) no comment offered

11(g) no comment offered

11(h) I believe it is not appropriate for federal and state elections to be held on the same day as the issues relevant to each election can be quite different. If anything there should be a requirement for at least three weeks between elections to allow some opportunity for campaigning by different candidates and on different issues.

## Chapter 12: Scrutiny of ballots

12(a) Since the introduction of the *Electoral Act 2004*, Tasmanian voters have been able to cast a pre-poll vote as an ordinary vote. They are required to sign a declaration that they are unable to vote on polling day and are marked off a certified list. This process has been well accepted by voters and election officials and assists in getting pre-poll votes counted on polling night.

12(b) no comment offered

12(c) no comment offered

12(d) I believe that principled decisions by electoral officials are sufficient

12(e) Yes

## Chapter 13: Dispute Resolution

13(a) Yes

## Chapter 14: Compliance and enforcement

14(a) no comment offered

14(b) no comment offered

14(c) Jurisdictional issues would need to be considered and may limit opportunity.