



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

SELECT COMMITTEE ON THE 2016 ACT ELECTION AND ELECTORAL ACT

Ms Bec Cody MLA (Chair), Mr James Milligan MLA (Deputy Chair)

Ms Tara Cheyne MLA, Ms Caroline Le Couteur MLA, Mr Andrew Wall MLA,

Submission 21

Name –Damian Haas

	A.C.T. LEGISLATIVE ASSEMBLY COMMITTEE OFFICE
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Dear Chair,

Re: Submission to Inquiry into the 2016 ACT Election and the Electoral Act

I thank the Assembly for holding this inquiry and look forward to practical and pragmatic recommendations from the select committee to ensure that the democratic process of the Territory continues to run smoothly and fairly.

I am making a submission to the select committee on this matter, as I believe that I am able to provide an experienced perspective from a person who has participated in several local elections as a volunteer for independent and political party candidates. I have also assisted a public transport lobby group in communicating its message on improved public transport through political campaigns.

The select committee has been established to review the operation of the 2016 ACT election and the Electoral Act and other relevant legislation and policies in regards to election-related matters, and make recommendations on:

- a. Lowering the voting age;
- b. Improving donation rules and donation reporting timeframes;
- c. Increasing voter participation in elections and encouraging political activity;
- and
- d. Any other relevant matter;

I shall address each point in order through this submission.

Lowering the voting age

I have no opinion on this matter.

I would observe that the ACT cannot make this decision in isolation to federal legislation. Even if it had the legal authority to change the voting age for territory elections, an incompatibility with federal election voting age would lead to confusion and less confidence in the robustness of our democracy.

The select committee should seek legal advice on the territories ability to lower the voting age, if that is not an action that the federal government is also seeking to implement.

Improving donation rules and donation reporting timeframes

I have no opinion on this matter.

Increasing voter participation in elections and encouraging political activity

No citizen should be forced to participate in the political process in any way, it must be voluntary participation. Mandating the way in which a citizen must participate is anti-democratic. A better way is to provide greater opportunities for political activity and participation. Encouraging participation requires politics to be presented in a positive way, as a contest of ideas and visions.

Accessing candidate policies, opinions, views and statements has never been easier with the advent of social media and mobile smart telephones. This has made the decline of the ability of the mainstream media (newspapers in particular) to cover local politics, less relevant despite a 'silencing' effect.

Local blogs unlike walled garden social media platforms do provide equal access to any person with a view to share. This access contrasts with local media outlets like the Canberra Times, which curates coverage and editorialises in news articles to present a view according to its agenda, or the Australian Broadcasting Corporation television outlet that focuses primarily on mainstream party candidates.

Some local television and radio outlets do a very good job in covering local politics, although they are by necessity focussed on the mainstream political parties, with limited opportunities to cover independent candidates. Participation is a two-way street though, and a candidate's efforts in placing their view before the public is just as important as the media's willingness and ability to cover it and offer wider access.

Traditional access in venues such as candidates forums must continue. The various community councils of Canberra offer these forums to all candidates. Other bodies offer forums tailored to their requirements, and these provide the opportunity for the public to test candidates on particular issues such as public transport, education, and housing etc before reaching a decision on where they will cast their vote.

The willingness of candidates to perform basic communications activities such as door knocking, distributing leaflets, holding street stalls and placing material in letterboxes depends on the individual candidate, and is a metric for people to evaluate a candidate. The select committee should not make recommendations limiting these activities.

Although the select committee is focussed on the 2016 election, politics occurs throughout a four-year term. The shift to a five by five electorate model in the territory offers an opportunity for MLA's to have offices in the electorates that they represent. This may make them more accountable and visible to voters. It may also provide a greater level of confidence in the political process if an MLA is visible in the electorate they seek to represent.

The ability of people to participate in political processes depends not just on the candidates, or the bodies providing access, but also on the individual person to have an interest in the issues and the election. That is something that requires all actors in the political process to take responsibility for.

The science of elections will inform future election tactics by the major parties. Tight message control and limiting access to crafted media events decreases interest and confidence, and participation. Any recommendation or finding by the select committee on this matter may be difficult to implement by the major political parties, let alone a person seeking to run as an independent candidate.

Increasing participation in the electoral process and encouraging political activity requires interest in the process. People that are engaged will participate. Developing policies that appeal to the electorate, providing a vision for people to support,

presenting a candidate as a sound decision maker and not merely a cipher – these are the ways in which participation will increase.

Any other relevant matter

I have views on several issues specifically:

- a. The use of small billboards and movable signs,
- b. Political signage in private homes,
- c. The distance around polling booths for material to be provided to voters,
- d. Electoral offices for MLA's

The use of small billboards and movable signs,

The current legislation, regulation and enforcement of small billboards and movable signs (corflutes) are adequate and do not need to be expanded upon with an intent to further limit the location, type and duration of display that the existing regulations allow. It is an important element of community and public discussion and the democratic process that should be enhanced, not limited. I would observe that recommendations to place limits on corflutes for political and community purposes might contravene Section 14 (1)b of the Human Rights Act 2004.

In September and October 2016 a community organisation that I was involved with distributed corflutes around Canberra in the latter weeks of an election period. We did not receive a single complaint from any member of the public or the ACT Government agencies charged with the responsibility to monitor, and remove corflutes if required.

Aside from comments in the mass media, some local blogs, and a few particularly obsessed individuals, there does not appear to be any community angst regarding corflutes. Not one member of the public has ever personally complained to me in person or by email. In fact the opposite occurred – ACT Light Rail was contacted during and after the campaign by individuals who wanted our corflutes (and indeed many were souvenired during the campaign).

The reasons that our community organisation chose to use corflutes were cost, distribution and visibility. We spent so little on the 2016 election that we did not fall under the ACT Electoral act for third party organisations (nevertheless, we did supply spending details in the interests of transparency). The low cost of entry to this medium by individuals and community groups provides the most level of playing fields for community and independent political organisations to access. A small outlay of some hundreds of dollars enables an independent or community group to have their message placed before the public.

With no budget for advertising, and a refusal by the Canberra Times to publish articles submitted to it, or for their journalists to engage with our organisation, we had only one avenue available to place our message before the wider Canberra public. Placing corflutes on the roadside, in accordance with the regulations covering this practice during an election campaign.

One of the few stories in the mainstream media concerning minor parties or independent candidates in the 2016 campaign specifically focussed on the corflutes candidates were using. Advertising is expensive in the mainstream media, and small organisations are of no interest to media outlets such as the Canberra Times or the Australian Broadcasting Corporation. Indeed, during an election campaign they focus mainly on the primary political parties and unless something controversial occurs, coverage of smaller organisations or parties is minimal. Corflutes are a cost effective way to place a message in front of the public.

The reduction in the electoral spending cap limiting a candidate to \$40,000 further limits non-party aspirant politicians from advertising their cause or message, except by using low-cost methods. Limiting any further the use and placement of corflutes, would severely impact the political process and harm the community through its ability to become aware of all political aspirants, and their messages. A strong democracy like the ACT, needs this low cost and infrequent practice, to ensure that its remains healthy and robust.

Future technologies may make corflutes obsolete, but those technologies are not here yet. The electoral spending regulations may make it difficult for independent and community organisations to utilise any new technology. Social media is a useful medium to distribute messages, however it is limited by the 'siloing effect' and further domination of social media into 'walled gardens' such as Facebook that limit by algorithms the messages that people may receive in their feeds.

The existing regulations covering corflutes are adequate, and already enforced. The period in which corflutes are displayed, and then removed is adequate and needs no modification. Elections are infrequent and although members of the public may not like seeing corflutes festooning the suburban streets and arterial roads of Canberra, it is an important democratic mechanism, and should not face further regulation. I would urge the select committee to make no recommendations further limiting the use or placement of corflutes during an election period.

I would also urge the select committee to refrain from recommending aesthetic regulation. Beauty is in the eye of the beholder, and the electoral act and defamation law can test statements. As garish as they may be in both artistic and political statement, they represent the individual or party and provide a mechanism for a member of the public to form a view of the policy, character and judgement based on corflutes.

Political signage in private homes

Another important aspect that may be considered by the select committee is placement of corflutes on suburban streets and non-arterial roads. I would urge the select committee to refrain from limiting the ability of individuals to place corflutes at their homes on suburban streets. It would be a severe infringement on the individual right of a person to express their political opinion, and a dangerous limit on free speech that could contravene Section 16 of the Human Rights Act 2004.

The distance around polling booths for material to be provided to voters

Electoral regulations covering federal and territory elections differ in some areas. One area that is different is the distance from an election booth. Or pre-polling station, in which political material (such as how to vote material) can be provided to voters. This is a significant issue at territory elections, impeding the ability of voters to inform themselves prior to casting a vote. .

While the intention of a the electoral commission in allowing unimpeded access by voters to a polling station, in an unmolested fashion, may be sound. The implementation of this policy has led to confusion by voters seeking information – or even the actual location of the polling booths – and limits the democratic process. The select committee may be unsurprised to learn that some voters are undecided on how to cast their vote, or who the candidates seeking to represent them are, even on the day of the election

The electoral commission also prohibits private homes from displaying political information within this boundary. This could contravene Section 16 of the Human Rights Act 2004. A person should be allowed to display any political message they wish, while conforming with the law.

The select committee should recommend aligning the territory regulations with the federal regulations regarding the distance around polling booths for political material to be provided to voters.

Electoral offices for MLA's

The shift to a five by five electorate model in the territory offers an opportunity for MLA's to have offices in the electorates that they represent. An electoral office open to the public in the community would be a meaningful way in which the territory could support small local shopping centres or town centres. As a basic function of local government, access by voters to their representatives should be made easier.

Local offices for MLA's would also ease the pressure on the Assembly building, enabling the machinery of government to operate in a less cramped fashion, and for Ministers to have offices separate from their local member responsibilities.

Regards

Damien Haas

29 June 2017

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