

SELECT COMMITTEE ON 2016 ACT ELECTION AND ELECTORAL ACT

INQUIRY INTO THE 2016 ACT ELECTION AND THE ELECTORAL ACT

DISCUSSION PAPER

APRIL 2017

COMMITTEE MEMBERSHIP

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Mr James Milligan MLA	Deputy Chair
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RESOLUTION OF APPOINTMENT AND TERMS OF REFERENCE

At its meeting on Thursday, 15 December 2016, the Legislative Assembly for the ACT passed the following resolution:

"That:

(1) A select committee be 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;

(2) The select committee shall consist of the following number of members, composed of:

- (a) Two Members to be nominated by the Government;
- (b) Two Members to be nominated by the Opposition;
- (c) One Member to be nominated by the Crossbench; and
- (d) The Chair shall be a Government Member;

(3) The select committee be provided with necessary staff, facilities and resources;

(4) The select committee is to report by the last sitting day in 2017;

(5) If the Assembly is not sitting when the committee has completed its Inquiry, the committee may send its report to the Speaker or, in the absence of the Speaker, to the Deputy Speaker, who is authorised to give directions for its printing, publishing and circulation;

(6) The foregoing provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders; and

(7) Nominations for membership of the committee be notified in writing to the Speaker within two hours following conclusion of the debate on the matter."

15 December 2016

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ABBREVIATIONS

ACT	Australian Capital Territory
AEC	Australian Electoral Commission
Select Committee	Select Committee on 2016 ACT Election and Electoral Act
Commission	ACT Electoral Commission
Commissioner	ACT Electoral Commissioner
Electoral Act	<i>ACT Electoral Act 1992</i>
Commonwealth Joint Standing Committee	Joint Standing Committee on Electoral Matters
Legislative Assembly	Legislative Assembly for the ACT
Education Standing Committee	Standing Committee on Education, Training and Young People
JACS Standing Committee	Standing Committee on Justice and Community Safety
The Report	ACT Electoral Commission's Report on the ACT Legislative Assembly Election 2016
Victorian Committee	Electoral Matters Committee

1 INTRODUCTION

CONDUCT OF THE INQUIRY

- 1.1 On 15 December 2016, the Legislative Assembly for the ACT (Legislative Assembly) established a Select Committee to review and report on the operation of the 2016 ACT election and the Electoral Act (Select Committee), as well as any other matters. The Select Committee is due to report to the Legislative Assembly by the last sitting day of the Assembly for 2017.¹
- 1.2 As part of the of the inquiry process, this Discussion Paper has been prepared to provide additional information about the terms of reference and some of the key issues. It is anticipated that this information will assist individuals and organisation with the preparation of submissions.
- 1.3 Groups and individuals are invited to submit comments on any or all of the issues raised in this Paper or any other issue they consider is relevant to the terms of reference of this Inquiry.
- 1.4 Public hearings for the Inquiry are expected to be held in the second half of 2017. Information about public hearings will be provided on the Inquiry webpage at the following location: http://www.parliament.act.gov.au/in-committees/select_committees/2016-ACT-Election-and-Electoral-Act

STRUCTURE OF THE DISCUSSION PAPER

- 1.5 The first section provides some general information about the Inquiry and the structure of the Discussion Paper. The remainder of the paper is structured as follows:
 - Section two provides a short summary to the report on the 2016 ACT Election by the ACT Electoral Commission;
 - Section three provides detail about some of the key issues and themes which will be considered during the Inquiry;
 - Section four outlines other issues on which views are sought for the purpose of the Inquiry; and
 - Section five concludes the paper with general information about making a submission to the Inquiry.

¹ Legislative Assembly for the ACT, *Minutes of Proceedings No.4*, 15 December 2016, pp. 42-43

2 ACT ELECTORAL COMMISSION REPORT ON THE ACT LEGISLATIVE ASSEMBLY ELECTION 2016

- 2.1 In March 2017, the ACT Electoral Commission's Report on the ACT Legislative Assembly Election 2016 (the Report) was tabled in the Legislative Assembly.
- 2.2 The Report makes a number of findings and recommendations arising from the ACT Electoral Commission's (the Commission's) consideration of the 2016 ACT Election. In addition to reporting on the conduct of the 2016 ACT Election, the Report makes recommendations for changes to the electoral legislation ahead of the 2020 ACT Election. The Report recommendations are reproduced in [Appendix A](#).
- 2.3 In addition to the recommendation, the Report lists a number of features that characterised the 2016 ACT Election. In addition to the 26 Notable Features arising from the election, the the Commission noted that the Court of Disputed Elections received the first application disputing an elections result in the history of ACT Legislative Assembly elections. This noteworthy feature and the 26 other Notable Features are reproduced in [Appendix B](#).

3 INQUIRY ISSUES AND THEMES

- 3.1 The terms of reference for this Inquiry define the specific major issues referred to the Select Committee, namely:
- Lowering the voting age;
 - Improving donation rules and donation reporting timeframes; and
 - Increasing voter participation in elections and encouraging political activity.
- 3.2 This section of the Discussion Paper provides further information about these key themes.

REVIEW OF THE VOTING AGE IN THE ACT

CURRENT PROVISIONS

- 3.3 The Commonwealth *Electoral Act 1918* currently provides that persons who meet the enrolment requirements are entitled to enrol and vote once they have attained the age of 18 years.² Additionally, the ACT *Electoral Act 1992* (Electoral Act) states that the ACT Electoral Commissioner (Commissioner) has the capacity to enrol a person for an electorate if the person is at least 16 years of age.³ However, section 128 of the Electoral Act states that a person who is enrolled is not entitled to vote at an election unless he or she will be at least 18 years old on the day the poll for the election is required.⁴

REVIEW OF VOTING AGE – 2007 ACT LEGISLATIVE ASSEMBLY REVIEW

- 3.4 In 2007, the Legislative Assembly Standing Committee on Education, Training and Young People (Education Committee) inquired into the Eligible Voting Age in the ACT. The Inquiry considered the possibility of the establishment of a scheme which would allow 16 and 17 year old ACT residents to vote in elections and referendums for the Legislative Assembly. As a result of this review, the 2007 report recommended that the Legislative Assembly consider the proposal to lower the voting age before the end of 2010.⁵

² Commonwealth of Australia, *Electoral Act 1918*, S93(1), compilation date, 21 October 2016

³ Australian Capital Territory, *Electoral Act 1992*, S75 (1), republication date 1 January 2017.

⁴ Australian Capital Territory, *Electoral Act 1992*, S128 (2), republication date 1 January 2017

⁵ Legislative Assembly for the ACT, Standing Committee on Education, Training and Young People, *Inquiry into the Eligible Voting Age*, September 2007:
http://www.parliament.act.gov.au/_data/assets/pdf_file/0005/380039/05educVotingAge.pdf

- 3.5 The Government response to the 2007 Committee report was that there was no clear support for lowering the voting age and as such, the voting age should not be changed. The Government, however, did support the Education Committee's view that the matter should be revisited at some time in the future.⁶

REVIEW OF VOTING AGE – OTHER PARLIAMENTARY REVIEWS

- 3.6 In May 2007, the Commonwealth Parliament Joint Standing Committee on Electoral Matters (Commonwealth Joint Standing Committee) inquired into Civics and Electoral Education. The Report noted that some submissions called for lowering the voting age from 18 to 16, and that this was being considered in a number of jurisdictions overseas. The Commonwealth Joint Standing Committee, however, was not convinced that lowering the voting age would achieve the desired effect of civic engagement amongst young people.⁷

REVIEW OF VOTING AGE - AUSTRALIAN ELECTORAL COMMISSION

- 3.7 In 2013, the Australian Electoral Commission (AEC) evaluated the evidence for lowering the voting age in Australia. The AEC's evaluation noted that support for lowering the voting age was only partially supported and that there was no evidence that lowering the voting age would increase political participation. The AEC further suggested that political knowledge today has not increased among young adults despite the increased participation in university education. Overall, the AEC found that the arguments for lowering the voting age did not stand up to empirical scrutiny.⁸

REVIEW OF VOTING AGE – INTERNATIONAL TRENDS

- 3.8 The Committee notes that current information shows that the minimum voting age of 16 is in effect in the following countries; Argentina, Austria, Bosnia and Herzegovina (if employed), Brazil, Cuba, Ecuador, Germany (for some state and municipal elections only), Guernsey, Isle of Man, Jersey, Nicaragua, Scotland, and Switzerland (for cantonal and municipal election in the canton of Glarus).

⁶ ACT Government, Standing Committee on Education, Training and Young People, *Inquiry into the Eligible Voting Age – Government Response*, December 2007: http://www.parliament.act.gov.au/_data/assets/pdf_file/0004/380038/6th_ETYP_05_Voting_age.pdf

⁷ Parliament of Australia, Joint Standing Committee on Electoral Matters, *Civics and Electoral Education*, May 2007: http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=em/education/report.htm

⁸ Australian Electoral Commission, *The Politics of Lowering the Voting Age in Australia: Evaluating the Evidence*, 2013, available at: http://www.aec.gov.au/About_AEC/research/caber/files/3b.pdf

DONATION RULES AND TIMEFRAMES

- 3.9 Under the Electoral Act, the Commission is established as an independent statutory agency with the responsibility for the conduct of elections and referendums for the Legislative Assembly and for the provision of electoral advice and services. The Electoral Act also establishes the ACT's election funding, expenditure and financial disclosure scheme that provides for election funding and financial disclosure arrangements.⁹
- 3.10 In February 2015, the Legislative Assembly passed the amendments to the Electoral Act, which made a range of changes to the ACT election funding, expenditure and financial disclosure scheme. The changes took effect from March 2015. The changes included:
- The removal of the \$10,000 cap on donation for ACT election purposes;
 - The removal of the restriction on receiving donation for ACT election purposes from organisation and persons not enrolled in the ACT;
 - An increase in election funding for parties and non-party candidates from \$2 per vote to \$8 per vote at the 2016 ACT Assembly election;
 - A decrease in the electoral expenditure cap to \$40,000 per candidate and third-party campaigner for an election held in 2016, compared to a \$60,000 cap at the 2012 election;
 - Changes to the timing for the regular report of gifts; and
 - An extension to the deadline for submission of annual returns by political participants so that annual returns must be provided to the Commissioner no later than 31 August each year, increasing the timeframe by a month.¹⁰

REVIEW OF ELECTORAL AND POLITICAL PARTY FUNDING - 2011 ACT LEGISLATIVE ASSEMBLY REVIEW

- 3.11 In 2011, the Legislative Assembly Standing Committee on Justice and Community Safety (JACS Standing Committee) inquired into electoral and political party funding in the ACT. The Inquiry considered the regulation of donation size, financial disclosure, direct and indirect public funding of elections, as well as donations by private individuals, organisations, corporations, unions and other contributors. As a result of this review, the JACS Standing Committee made a number of recommendations regarding the regulation of donations. Recommendations can be found at:
- <http://www.parliament.act.gov.au/in-committees/previous-assemblies/Standing-Committees-Seventh-Assembly/Standing-Committee-on-Justice-and-Community-Safety/07-Inquiry-into-Campaign-Finance-Reform>

⁹ Australian Capital Territory, *Electoral Act 1992*, republication date 1 January 2017

¹⁰ ACT Electoral Commission, *Report on the ACT Legislative Assembly Election 2016*, 03 March 2017, p. 63

OTHER CONSIDERATION – COMMONWEALTH PARLIAMENT

- 3.12 There have been a number of inquiries conducted at the Commonwealth level into political donations during elections, including in 2011 when the Senate referred an inquiry into the funding of political parties and election campaigns to the Commonwealth Joint Standing Committee. The Inquiry reviewed a number of options to improve the system of the funding of political parties and election campaigns.
- 3.13 The Commonwealth Joint Standing Committee’s report – Inquiry into the Funding of Political Parties and Election Campaigns – can be found at:
http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_committees?url=em/political%20funding/report.htm
No government response was made to the report.
- 3.14 In September 2016, the Special Minister of State, Senator the Honourable Scott Ryan, asked the Commonwealth Joint Standing Committee to inquire into and report on all aspects of the 2016 Federal Election and related matters. Included in this Inquiry was a review of current donation, contributions, expenditure and disclosure regimes, its application and timeliness and possible alternative approaches available to the Parliament.¹¹
- 3.15 In December 2016, the Commonwealth Joint Standing Committee tabled an interim report on the authorisation of voter communication and in March 2017, the Commonwealth Joint Standing Committee tabled its second interim report on foreign donations. This Inquiry is ongoing and further information on the Commonwealth Joint Standing Committee’s findings and recommendations can be found at:
http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Electoral_Matters/2016Election

DONATION RULES AND REPORTING IN THE ACT

- 3.16 In 2014, the Electoral Act was amended to change the amount of public funding that political parties receive, along with changes to funding caps and reporting requirements. These amendments were part of a multi-pronged approach aimed at levelling the playing field between the various parties and individual candidates, and ensuring a transparent and accountable electoral system.

¹¹ The Commonwealth has done a number of inquiries regarding political donations during elections, including in 2011 when the Senate referred an inquiry into the funding of political parties and election campaigns to the Joint Standing Committee on Electoral Matters. The Inquiry reviewed a number of options to improve the system of the funding of political parties and election campaigns. The Joint Standing Committee’s report can be found at:
http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_committees?url=em/political%20funding/report.htm
No government response was made to the Joint Standing Committee on Electoral Matters inquiry into the Funding of Political Parties and Election Campaigns

- 3.17 Issues of importance to the Committee in relation to political donations include addressing goals of achieving transparency, accountability, equity, equality in political donation and funding, and whether and how these aims operate in the political and electoral process.
- 3.18 Discussion of this issue may also provide views on how fairness and equity for smaller parties may be achieved in the electoral process.

INCREASING VOTER PARTICIPATION AND ENCOURAGING POLITICAL ACTIVITY

- 3.19 The Commission's report on the ACT Legislative Assembly Election 2016 notes that, 250,460 electors cast votes that were admitted to scrutiny at the 2016 election. This represents a turnout of 88.3% of estimated eligible citizens. This turnout was 4.4% higher than the 2012 election (83.0%), and the highest turnout of the last four ACT elections.¹²
- 3.20 Of the votes cast during the 2016 election, 1.4% of electronic votes were considered informal votes, while 3.1% of paper ballot votes were considered informal votes.¹³
- 3.21 In the lead up to the 2016 ACT election, the Commission undertook an extensive communication campaign that shared several messages, through a number of methods, to the ACT electors. One unusual aspect of the 2016 ACT election was the proximity of the Commonwealth general election on 2 July 2016. Questions arose about whether such proximity influenced voters' knowledge and interest, and whether any issues of confusion arose.

OTHER JURISDICTIONS - COMMONWEALTH¹⁴

- 3.22 In May 2007, the Commonwealth Joint Standing Committee inquired into the adequacy of electoral education. It was noted that civic and electoral education is considered a key contribution in ensuring citizens are not only adequately informed, but are able to participate in the electoral process in an effective way.
- 3.23 The Inquiry identified that young Australians between the ages of 15 and 35, as well as Indigenous Australians and migrant citizens, typically have limited knowledge or interest in Australian politics. In light of this, the Commonwealth Joint Standing Committee examined reasons for disconnect amongst young people, Indigenous Australians and migrant citizens and ways to mitigate this.

¹² ACT Electoral Commission, *Report on the ACT Legislative Assembly Election 2016*, March 2017, p.30

¹³ *Ibid*, p. 74

¹⁴ *Ibid*, p. 24

- 3.24 The Commonwealth Joint Standing Committee made 17 recommendations that focused on matters regarding the provision of civics education, as well as providing practical measures aimed at reducing the disenfranchisement of eligible voters who may be at a disadvantage in gaining such knowledge.¹⁵
- 3.25 The Commonwealth Joint Standing Committee Report was tabled on June 2007 and Interim Government Response was tabled in October 2008 noting that all recommendations were to be referred to an interdepartmental taskforce prior to the formulation of the Government's final response to the Commonwealth Joint Standing Committee Report.
- 3.26 The Final Government Response was tabled in August 2011. Out of the 17 recommendations provided by the Commonwealth Joint Standing Committee, the Government supported six recommendations, partially supported one recommendation, supported in principle seven recommendation, noted two recommendations and did not support one recommendation. The Government Response can be found at:
http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=em/reports.htm

OTHER JURISDICTIONS - VICTORIA

- 3.27 In May 2008, the Victorian Electoral Matters Committee (Victorian Committee) self-referred an inquiry to consider and report to the Parliament by 30 June 2009 on issues relating to voter participation and informal voting.
- 3.28 The Victorian Committee found that the enrolment processes, adopted by the Victorian Electoral Commission, were no longer effective as young people aged 18 to 25 were not returning enrolment forms. The Committee considered an automatic enrolment process to increase the number of young people enrolled to vote.¹⁶
- 3.29 The Victorian Committee also considered a number of procedures to reduce the number of informal votes. This included, but was not limited to, the consideration of persons who had attempted to participate in voting but had inadvertently not complied with legislated voting requirements. The Victorian Committee's Report can be found at:
https://www.parliament.vic.gov.au/images/stories/committees/emc/Full_report_-_voter_participation_and_informal_voting.pdf

¹⁵ Parliament of Australia, Joint Standing Committee on Electoral Matters, *Civics and Electoral Education*, May 2007: http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=em/education/report.htm

¹⁶ Victorian Electoral Matters Committee, *Inquiry into Voter Participation and Information Voting in Victoria*, July 2009: https://www.parliament.vic.gov.au/images/stories/committees/emc/Full_report_-_voter_participation_and_informal_voting.pdf

- 3.30 The Victorian Government supported, supported in part or supported in principle majority of the Victorian Committee's recommendations. The Government's response can be found at: https://www.parliament.vic.gov.au/images/stories/committees/emc/Voter_Participation/Report/Gov_response_to_the_inquiry_into_voter_participation_and_informal_voting_240610.pdf
- 3.31 The Victorian Committee identified a number of areas which may affect voter participation. These include but are not limited to:
- Education;
 - Voter options;
 - Accessibility;
 - Party membership/influence; and
 - Advertisement.

4 OTHER AREAS FOR CONSIDERATION BY THE COMMITTEE

- 4.1 The terms of reference for this Inquiry invite comments on a range of issues including lowering the voting age to 16, improving donation and donation reporting processes, increasing voter participation, encouraging political activity and any other relevant matter.
- 4.2 The Committee considers that, in addition to the matters raised by the terms of reference, the following issues are also of importance to this Inquiry, as matters relevant to the provisions in the ACT Electoral Act:
- Movable signs, roadside signs (corf lutes) and related signs;
 - Positioning and display of signs
 - Compliance with existing requirements governing activities on Polling Day;
 - The 100 metre rule, which prevents canvassing and distribution of ‘how to votes’ or other material within 100 metres of a polling place – including current provision in other jurisdictions;
 - ‘Truth in advertising’ issues, incorporating electoral advertising and Government advertising which may have electoral import;
 - Pre-poll voting rules;
 - Use of electronic voting at polling stations;
 - Overseas voting by ACT voters – access to online or email voting;
 - Instructions to voters on how to cast a valid vote; e.g. text displayed on the voting ballot paper which instruct voters on how to cast a valid vote;
 - Expenditure caps;
 - Disqualification of candidates, particularly the time limits imposed on candidates for close of nominations; and
 - The current process for addressing the disputed election process in the ACT.
- 4.3 The Committee invites comment on all matters relating to the election and electoral regulation that contributors may wish to make to this Inquiry.

5 INVITATION FOR SUBMISSION

- 5.1 The Committee invites comments to the issues raised in this Discussion Paper from interested individuals and organisations. Submissions can cover any matter that is relevant to the operation of the 2016 ACT election and Electoral Act and any other relevant legislation and policies in regards to election related matters.
- 5.2 The information provided in this Discussion Paper should not be regarded as exhaustive. Interested parties are invited to bring other information or relevant case studies to the Select Committee's attention, and to canvass other issues relating to the terms of reference not outlined in this Discussion Paper.
- 5.3 Further information about making a submission can be found in *Making a Submission or Appearing before a Committee of the Legislative Assembly for the ACT*, available on the Legislative Assembly website at the following location:
http://www.parliament.act.gov.au/_data/assets/pdf_file/0007/399184/Witness-guide-2013-05-31-final.pdf

Ms Bec Cody MLA

Chair

20 April 2017

6 REFERENCES

- 6.1 Australian Capital Territory, *Electoral Act 1992*, republication date 01 January 2017, accessible at: <http://www.legislation.act.gov.au/a/1992-71/current/pdf/1992-71.pdf>
- 6.2 Australian Capital Territory Electoral Commission, *Report on the Australian Capital Territory Legislative Assembly Election 2016*, 03 March 2017, available at: http://www.elections.act.gov.au/_data/assets/pdf_file/0016/1044016/Report-on-the-ACT-Legislative-Assembly-Election-2016.pdf
- 6.3 Australian Capital Territory, Sixth Assembly, Standing Committee on Education Training and Youth Affairs, *Inquiry into the Eligible Voting Age – Government Response*, February 2008, available at: http://www.parliament.act.gov.au/_data/assets/pdf_file/0004/380038/6th_ETYP_05_Voting_age.pdf
- 6.4 Australian Electoral Commission, *The Politics of Lowering the Voting Age in Australia: Evaluating the Evidence*, 2013, available at: http://www.aec.gov.au/About_AEC/research/caber/files/3b.pdf
- 6.5 Commonwealth of Australia, *Electoral Act 1918*, compilation date, 21 October 2016, accessible at: <https://www.legislation.gov.au/Details/C2016C01022>
- 6.6 Legislative Assembly for the Australian Capital Territory, *Minutes of Proceedings No.4, 15 December 2016*, pp. 42-43, accessible at: http://www.parliament.act.gov.au/_data/assets/pdf_file/0004/1019155/MoP004F.pdf
- 6.7 Legislative Assembly for the Australian Capital Territory, Seventh Assembly, Standing Committee on Justice and Community Safety, *Inquiry into Campaign Finance Reform*, September 2011, available at: http://www.parliament.act.gov.au/_data/assets/pdf_file/0003/373431/Campaign_Financing_Report_2011.pdf
- 6.8 Legislative Assembly for the Australian Capital Territory, Sixth Assembly, Standing Committee on Education, Training and Young People, *Inquiry into the Eligible Voting Age*, December 2007, accessible at: http://www.parliament.act.gov.au/_data/assets/pdf_file/0005/380039/05educVotingAge.pdf
- 6.9 Legislative Assembly for the Australian Capital Territory, Seventh Assembly, Standing Committee on Justice and Community Safety, *Inquiry into Campaign Finance Reform – Government Response*, September 2011, available at: http://www.parliament.act.gov.au/_data/assets/pdf_file/0020/373430/7th_JCS07_campaign_finance_reform.pdf

- 6.10 Parliament of Australia, Joint Standing Committee on Electoral Matters, *Civics and Electoral Education*, May 2007, available at: http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=em/education/report.htm
- 6.11 Parliament of Australia, Joint Standing Committee on Electoral Matters, *The 2016 Election*, May 2007, available at: http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Electoral_Matters/2016Election
- 6.12 Parliament of New South Wales, Joint Standing Committee on Electoral Matters, *Inquiry into the Final Report of the Expert Panel – Political Donation and the Government’s Response*, June 2016, available at: <https://www.parliament.nsw.gov.au/committees/DBAssets/InquiryReport/ReportAcrobat/6068/Inquiry%20into%20the%20Political%20Donations%20Final%20Report%20and%20the%20Governments%20Response.pdf>
- 6.13 Parliament of Victoria, Electoral Matters Committee, *Inquiry into Voter Participation and Informal Voting in Victoria*, July 2009, available at: https://www.parliament.vic.gov.au/images/stories/committees/emc/Full_report_-_voter_participation_and_informal_voting.pdf
- 6.14 Scottish Parliament, *Minutes of Proceedings*, Parliamentary Year 5, No. 18 Session 4, 18 June 2015: available at: http://www.parliament.scot/S4_BusinessTeam/pm-v5n18-s4.pdf
- 6.15 The Electoral Knowledge Network, Comparative Data, *What is the Legal Voting Age in the National Elections*, 2008, available at: <http://aceproject.org/epic-en?question=VR001&f>
- 6.16 Victorian Government, Electoral Matters Committee, *Inquiry into Voter Participation and Informal Voting in Victoria – Government Response*, no date, available at: https://www.parliament.vic.gov.au/images/stories/committees/emc/Voter_Participation/Report/Gov_response_to_the_inquiry_into_voter_participation_and_informal_voting_240610.pdf

Appendix A REPORT BY THE ACT ELECTORAL COMMISSION ON THE ACT LEGISLATIVE ASSEMBLY ELECTION 2016 – RECOMMENDATIONS

The Commission has made the following recommendations in this report.

Recommendation 1

The Commission recommends that the Assembly notes that the Commission will investigate a limited electronic voting option for electors who are overseas and will report back to the Legislative Assembly at a later date. (See “Postal voting” on page 36.)

Recommendation 2

The Commission recommends that the Electoral Act be amended to provide that any elector may vote at a pre-poll voting centre, without the need to declare that they are unable to attend a polling place on polling day. (See “Removing restrictions on pre-poll voting” on page 44.)

Recommendation 3

The Commission recommends that the Electoral Act be amended to require the full given name and surname of a person be shown in an authorisation statement. (See “Authorisation of electoral advertisements” on page 48.)

Recommendation 4

The Commission recommends that the Electoral Act be amended to require the name of an entity to be shown in an authorisation statement, where electoral matter is published on behalf of an entity. (See “Authorisation of electoral advertisements” on page 48.)

Recommendation 5

The Commission recommends that, subject to consultation with Transport Canberra and City Services, the moveable signs code of practice be amended to provide that electoral signs displayed on public land may not be placed on suburban streets and may only be placed on specified stretches of major arterial roads, outside designated areas that have the special characteristics of the national capital. (See “Political party and candidate posters in public places” on page 51.)

Recommendation 6

The Commission recommends that Schedule 4 of the Electoral Act be amended to provide that vote values calculated by multiplying ballot paper totals by fractional transfer values should be rounded down to 6 decimal places, rather than the nearest whole number. The Commission further recommends that this amendment should apply to elections for the ACT Legislative Assembly and the Aboriginal and Torres Strait Islander Elected Body. (See “Enhancement of the ACT’s Hare-Clark counting system” on page 56.)

Recommendation 7

The Commission recommends that the Assembly consider whether it should amend the Electoral Act to increase the expenditure cap applied to ungrouped candidates to avoid the risk of impermissibly burdening the freedom of political communication implied by the Commonwealth Constitution. (See “Limits on election campaign expenditure” on page 64.)

Recommendation 8

The Commission recommends that the Assembly consider whether it should amend the Electoral Act to increase the expenditure cap applied to third-party campaigners to avoid the risk of impermissibly burdening the freedom of political communication implied by the Commonwealth Constitution. (See “Limits on election campaign expenditure” on page 64.)

Recommendation 9

The Commission recommends that section 243(5) of the Electoral Act should be amended to alter the reference to “information about a gift made by an individual” to “information about an amount received from an individual”. (See “Publication of personal information in disclosure returns” on page 67.)

Recommendation 10

The Commission recommends that the penalty notice fine for failing to vote at ACT Legislative Assembly elections should be increased and linked to a fraction of a penalty unit. The Commission further recommends that the penalty should be set at $\frac{1}{4}$ of a penalty unit, rounded down to the nearest \$5. (See “Compulsory voting” on page 68.)

Appendix B REPORT BY THE ACT ELECTORAL COMMISSION ON THE ACT LEGISLATIVE ASSEMBLY ELECTION 2016 – NOTABLE FEATURES

Notable features of the 2016 ACT Legislative Assembly election included:

- Implementing the increase in the size of the Assembly from 17 MLAs to 25 MLAs, elected from 5 electorates each returning 5 MLAs;
- Facilitating the election of the first parliament in Australian history with a majority of female members, with 13 female MLAs elected;
- The nomination of the highest number of candidates ever to contest an ACT election, with 141 candidates contesting the election – the previous highest number was 117 at the first election held in 1989;
- Recording the highest number of votes in an ACT election – 250,460 (compared to 229,125 in 2012);
- Successful expansion of electronic voting facilities to 81,538 voters – over 32.5% of all voters (compared to 59,200 voters in 2012– over 25% of all voters);
- Having the highest number of eligible voters for any ACT election – 283,162 (compared to 256,702 in 2012);
- Having the most complete electoral roll for an ACT election, with 99.8% of the estimated eligible population enrolled, including very high levels of enrolment of 18-24-year-olds;
- Achieving the highest level of voter turnout of the last 4 elections, when measuring voter participation as a proportion of the estimated eligible population, with over 88% of the eligible population casting a vote;
- Recording the lowest ever rate of informal voting at an ACT election, with only 2.5% of votes counted as informal;
- The conduct of the first general election by the Commission following the establishment of the Members of the Commission as officers of the Legislative Assembly on 1 July 2014;
- The conduct of a performance audit of the conduct of the 2016 ACT Legislative Assembly election by the ACT Auditor General’s Office, indicating that the election was conducted effectively;
- Continued use of networked computers to provide electronic electoral rolls in all polling places, enabling the transmission of marked-off voter names to all rolls across the ACT, leading to efficiencies and environmental savings and reducing the likelihood of voting fraud;
- Continued provision of secret voting facilities for blind and sight-impaired people using electronic voting;

- Conducting an extensive public information campaign, combining traditional media advertising and online advertising with public relations activities and social media platforms;
- The use of SMS messages as a medium to inform electors of their enrolment in new ACT electorates;
- High voter satisfaction with electoral services, with 96% of surveyed voters expressing satisfaction with their overall voting experience;
- Using the intelligent character recognition scanning system (first used in Australia for the 2008 ACT election) for capturing and counting preferences marked on paper ballots;
- Finalising the election result in record time, with the count concluding 7 days after polling day as a result of combining the scanning of paper ballots with electronic voting and the eVACS® counting system;
- Updating the interactive on-line training system for polling staff, building on the success of the system first used in the ACT in 2008 and again in 2012;
- Continued use of an electronic display for the draw for positions on ballot papers;
- Maintaining the simplified processes for applying for a postal vote, including on-line and phone applications, contributing to a record number of postal votes counted – 13,114 (compared to 9,859 in 2012);
- Continuing to provide early voting facilities at 6 pre-poll voting centres and 7 interstate electoral offices, serving a record number of voters using pre-poll voting: 84,273 (compared to 61,660 in 2012);
- Discontinuing the provision of a Tally Room on election night, in line with developments in other Australian jurisdictions;
- Use of an improved display of election results on the internet on and after election night, noting that the results website experienced some difficulty on election night with handling the load of inquiries;
- Implementing the funding, expenditure and financial disclosure provisions, including caps on the amount of expenditure that could be incurred on ACT elections, frequent disclosure of gifts received, and payment to political parties with Assembly representatives for administrative purposes; and
- Payment of a record amount in public funding to parties and candidates: \$1,716,784, following an increase in the rate of funding from \$2 per vote to \$8 per vote (compared to \$409,402 in 2012).

Another noteworthy feature of the 2016 election was the lodgement of the first application disputing an election result in the history of ACT Legislative Assembly elections. A person lodged an application with the Court of Disputed Elections in December 2016 disputing the election result in Yerrabi on the basis of the rejection of his nomination by the Commissioner. At the time of writing this report, the case was still before the court. The Commission will report on this matter after the case has been determined in the relevant annual report.