



Legislative Assembly for the
Australian Capital Territory

Standing Committee on the Integrity
Commission and Statutory Office
Holders

Submission Cover Sheet

Inquiry into the operation of the 2024 ACT Election and Electoral Act 1992

Submission number: 031

Submitter: Matt Watts

Date authorised for publication: 14 October 2025

MATT WATTS



30 September 2025

To: *Standing Committee on the Integrity Commission and Statutory Office Holders*
(LACommitteeIntegrity@parliament.act.gov.au)
Cc: *Ed Cocks MLA, Member for Murrumbidgee* (Ed@parliament.act.gov.au)
Andrew Braddock MLA, Member for Yerrabi (Braddock@parliament.act.gov.au)
Taimus Werner-Gibbings MLA, Member for Brindabella
(Taimus.WG@parliament.act.gov.au)

Re: Inquiry into the operation of the 2024 ACT Election and *Electoral Act 1992*

Dear Chair,

It is well-known that the ACT is responsible for functions that are, within the Australian context, typically the domains of both state and local government tiers, such as roads, rates, rubbish, health, education, policing, and so on.

- Of Australia's self-governing states and territories, only the ACT, Northern Territory, and Queensland are unicameral, yet the latter two have local government jurisdictions as an additional governance tier. The ACT has 'community councils' to better enable consultation, although these do not possess any decision-making powers, and they do not cover all our suburbs/territory.
- The ACT is the only self-governing state or territory without a Governor or, in the case of the NT, an Administrator. Recent manoeuvrings in the Tasmanian Parliament indicate that vice-regal powers remain relevant to consideration of Australia's governance and public administration. Given the reticence of the Australian Government to intervene in ACT matters, there is less of a check on Executive authority than all the other self-governing jurisdictions.
- The election rules for most local government areas throughout Australia are broadly consistent within each state¹ and are therefore, with the occasional exception for capital cities, not particularly tailored to the specificities of each region. For local government services to ratepayers, the ACT's ability to tailor its own electoral system is unique within Australia.

Considering the above observations, notwithstanding potential Commonwealth intervention, I submit that on a day-to-day basis the ACT Legislative Assembly wields the most directly powerful governance processes in Australia. The ability of the ACT's MLAs – particularly those forming the ACT Government – to marshal votes and resources to implement decisions is more unencumbered than that experienced by members of any other Australian parliament or local government. Canberrans should be mindful of this exceptional power when considering the operations ACT elections.

I offer this submission in a personal capacity.

¹ Christmas Island and Cocos (Keeling) Islands are subject to Western Australia's local government legislation by virtue of federal law, despite not being part of Western Australia.

Voter engagement

Timing and accessibility of voting

Early voting – particularly prepoll – was designed to enable democratic participation by those who may have work or other responsibilities on polling day and would be unable to vote. Early voting has since become a matter of convenience rather than necessity; the ACT Electoral Commission may be happy with this development due to various efficiencies, including the use of the electronic voting system at prepoll and the smaller number of workers required on polling day, whether it admits its preference to the Legislative Assembly or not. In any event, the ACT has a sizeable and increasing share of prepoll votes, and the apparent shift from a polling *day* (with exceptions) to a polling *month* has greatly impacted the nexus between election campaigns and voter behaviour, although I suspect this upheaval has not yet settled. I do not propose any particular reform in response to it, although I suggest this new reality should inform the Legislative Assembly's consideration of Electoral Act particulars moving forward.

Expanding the franchise

There is an old saying: no taxation without representation.

The ACT is responsible for local government services and yet certain ratepayers are disenfranchised if they are not citizens who are resident in the ACT and enrolled on the federal electoral roll. New South Wales, Victoria, South Australia, Western Australia, and Tasmania each allow additional voters to participate in local government elections to varying degrees. I believe it is timely to consider how the ACT should expand the franchise in an attempt to ensure there is no taxation without representation. Consideration of potential additions to the ACT electoral roll – including whether they would be voluntary voters – could include:

- non-citizen ACT residents, such as permanent residents;
- ratepayers and ACT property owners who reside outside the ACT; or
- representatives from bodies corporate and companies located within the ACT.

I am aware of a push to lower the minimum voting age to 16 years old. I suggest such a move would be incongruent with other moves to infantilise teenagers, including social media bans, which would result in the expectation that a person who turns 16 immediately before election day would need to be magically informed of local political matters without access to modern campaign communications.

Voting process

Ballot instructions

Official Electoral Commission instructions at the *top* of each ballot state: “Number five boxes from 1 to 5 in the order of your choice,” and, “Then you may show as many further preferences as you wish by writing numbers from 6 onwards in other boxes” (as per Schedule 1 of the Electoral Act). The apparent reason for this instruction is that the Hare-Clarke system requires preferences to flow in order to a) equitably elect members at the time of each election, and b) enable count-backs should vacancies arise during that term. I make the following observations:

- Notwithstanding the instructions, paper ballots where a voter indicates fewer than five preferences can still be counted if the voter intent is clear. That is, a voter who just votes “1” and nothing else will still have that vote counted for the sake of inclusivity, although the electoral system would break if every voter did the same.
- Informal voting statistics have fallen as the proportion of prepoll votes has increased. This trend is likely due to the electronic voting system requiring the minimum of five preferences to be cast in line with the official instructions; that is, it is impossible to select two first preferences on the electronic voting system, and such a vote on a paper ballot would have been deemed invalid.
- The number of valid votes where preferences have expired before five preferences have been selected has also declined in line with the increase in prepoll votes. Paper ballots can be requested at prepoll, although this option is not widely known, and the vast majority of prepoll votes are cast electronically.
- With paper, it is possible to collect the ballot after having one's name ticked off by an official, rip up the ballot in front of that official, then declare “SECRET BALLOT!” while shoving the shards into the collection box, without retribution.

The present arrangements push voters to select candidates they may not wish to preference, yet the implementation is not consistent across paper and electronic ballots, so the rate of informal votes differ. I am not sure that the mode of ballot should lead to such different outcomes, particularly as an increasing proportion of voters are being driven to vote for candidates they do not know.

Political electoral activity

Digital campaigns

Certain ACT Government MLAs have potentially abused their access to official government information to the extent that it is difficult to decouple a political candidate's partisan online activity and what is disseminated as necessary public information. Access to consolidated information concerning topics such as changes to government services over a public holiday seems to be best achieved through following the responsible minister's social media account, meanwhile the ACT Government's social media pages post inane things like "Are you on the hunt for the best burger in town? We've got you covered!" – there seems to be a structural flow of official information to what are essentially MLA campaign pages, without an alternative opportunity to access the same consolidated information from an equivalent ACT Government-managed (non-partisan) page. There would be nothing wrong with a minister sharing their department's social media page with their own followers, of course. Regarding the current practice, however, noting the way social media algorithms work it is apparent that sitting ministers who make use of official ACT Government information are placed at a significant campaign advantage. I do not understand how directing ACT public servants to provide community announcements to the responsible Minister for use on campaign pages – when the same information is not otherwise available on social media – is not considered a misuse of ministerial office.

Truth in advertising

I do not believe there is a role for truth in political advertising laws, because they would add red tape to the actions of those who seek to do the right thing whereas those who seek to mislead could ignore any laws. The fact the Chief Minister denies having never delivered a surplus should say it all, although I also note the inability of officials to prevent or correct false information in a timely manner. I suggest candidates should be responsible for engaging in a battle of ideas without restrictions on their freedom of speech, and those who lie should be subject to public judgement.

Electoral funding, donations, and expenditure

Capped campaign expenditure

Capped expenditure is a joke for as long as certain ministers abuse their office, trade unions (as registered industrial organisations) are able to run campaigns and offer in-kind support, and individuals located outside the ACT can intervene in local politics.

Developer campaign donation restrictions

I was shocked to learn that a candidate who has been employed by a developer is unable to donate to their own campaign (subject to Section 222C). Then, I was dismayed to learn that the interpretation of 'developer' is rather skewed: in my view, the CFMEU (or CFMMEU) could be classed as a developer, and yet it and its employees and officers are not subject to developer donation restrictions.

- The CFMEU has been represented on the board of CBUS, a superannuation fund which itself is a property developer.
- The CFMEU is represented on the Tradies Club board, and is directly developing property.

One cannot separate the CFMEU from these organisations or developments. While I accept the extant legislation attempts to carve out non-profits from the developer definition, trade unions are inherently political and, whilst the CFMEU does not distribute profits to shareholders, it seeks to financially benefit its members via different means, namely employment and conditions of employment. I suggest that the Legislative Assembly either extends the developer donation ban to bodies such as trade unions and their employees, or remove the developer donation ban altogether in line with freedom of speech/ political communication principles.

Implied freedom of political communication

Compatibility with the Australian Constitution has not stopped ACT Government behaviour in the past, and the topic of freedom of expression in this context raises questions about the efficacy of the ACT's own *Human Rights Act 2004*. In any event, I suggest the ACT's greater focus should be on topics such as libel, corruption, and the registration of legitimate political parties.

Other relevant matters

Extraterritorial political parties

The current rules allow electoral participation by non-Canberrans who possess minimal local skin in the game. I would much prefer that we extend the franchise to all who pay rates locally (as suggested above), while ensuring candidates and parties meet certain *local connection* requirements.

- At present, these extraterritorial parties are run by those who are unable to vote in ACT elections, yet they can receive taxpayer funds for our votes.
- An interstate or overseas person who authorises material, and is theoretically subject to the Electoral Act, could in practical terms simply ignore the ACT's rules and be free from fines.

The fact is, the current definition of party membership does not need to exist beyond a bunch of locals signing up to an externally coordinated mailing list, with no other contribution. Political parties take various forms, although I am not convinced we should be funnelling public funds to the political equivalent of a shell company. This is not to say the candidates themselves should not be allowed to contest ACT elections; I merely believe they should not claim party status in the absence of a local party.

Conclusion

Overall, we should be thankful for our peaceful electoral processes. I am concerned that without proper consideration of democratic principles we may run the risk of complacency. The ACT Legislative Assembly is arguably more unencumbered by any other Australian assembly on a day-to-day basis, and I suggest the fact we never hear this publicly discussed is a concern.

Thank you very much for your consideration of the above observations and suggestions.

Yours Sincerely,

Matthew Watts JP