



# LEGISLATIVE ASSEMBLY

FOR THE AUSTRALIAN CAPITAL TERRITORY

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STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY

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## Submission Cover Sheet

Inquiry into 2020 ACT Election and the Electoral Act

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# **ACT GREENS SUBMISSION TO ACT LEGISLATIVE ASSEMBLY JUSTICE AND COMMUNITY SAFETY COMMITTEE INQUIRY INTO THE 2020 ACT ELECTION AND THE ELECTORAL ACT**

The ACT Greens have several suggestions or recommendations for improvement to the Electoral Act 1992, to achieve greater efficiency and transparency and enhance the democratic and participatory processes of ACT elections, as well as recommending several broader improvements to the ACT election rules and processes.

We note that this submission was largely written without the ability to respond to the ACT Electoral Commission's report on the 2020 ACT Election, as it was only published within the past week, thus responses to the Commission's recommendations are not comprehensive.

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## CAMPAIGN MATERIALS

### TRUTH IN POLITICAL ADVERTISING

There have been long-standing calls for truth in political advertising, as evidenced by APH discussion papers back to the 1990s<sup>1</sup> and as evidenced by the open letter to the Australian to that effect last year, coordinated by the Australia Institute<sup>2</sup>. After ACT Greens calls for truth in political advertising since the 2016 election<sup>3</sup>, amendments from Caroline Le Couteur MLA were passed into legislation in 2020. Unfortunately, the timing of the legislative debate did not allow for the provisions to be commenced until July 2021.

The legislation will only cover authorised political advertising where matters of fact are in dispute. The ACT legislation is based on existing South Australian laws which only cover statements of fact that are inaccurate and misleading to a material extent. The South Australian laws allow people to make a complaint about party political material that is disseminated in any way, including social media posts from authorised accounts to the SA Electoral Commission. The Commissioner can then make a ruling. This ruling could be to remove the offending material or to publish a correction.

This legislation has been in operation in South Australia for decades, under both Liberal and Labor governments. It has also survived high court challenges.

We understand that the ACT Electoral Commission is reluctant to play a role in determining what is 'truthful', and thus we suggest that this role should be outsourced to an external body, just as it has long been done in South Australia.

We note that the South Australian 'misleading advertising' provisions seem to be well managed by the SA Electoral Commission, as evidenced by numerous findings by the Commission.<sup>4</sup> We understand that the SA Commission outsources their research and fact-checking work to an external, independent body to alleviate the Commission itself from the burden of research and proof, but that it is the Commission that makes the findings and requests to publishing parties, as outlined in s.113 of the *Electoral Act 1985 (SA)*<sup>5</sup>.

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<sup>1</sup>[https://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/rp/RP9697/97rp13](https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/RP9697/97rp13)

<sup>2</sup><https://australiainstitute.org.au/post/29-prominent-australians-call-for-truth-in-political-advertising-laws-by-next-election/>

<sup>3</sup><https://greens.org.au/act/news/2020-act-election-greens-bring-truth-electoral-advertising-vote>

<sup>4</sup><https://www.abc.net.au/news/2018-03-14/sa-election-aec-upholds-complaint/9546522>

<sup>5</sup>

<https://www.legislation.sa.gov.au/LZ/C/A/ELECTORAL%20ACT%201985/CURRENT/1985.77.AUTH.PDF>

The ACT Greens strongly support adequate funding to enable Elections ACT to be able to respond to complaints in a timely manner, as timing can be crucial in election campaigns. We suggest that the use of ANU or perhaps the same body that is engaged by the SA Electoral Commission, be used for fact-checking if Elections ACT prefer not to undertake this task themselves.

**Recommendation 1:** That the Assembly ensure that Elections ACT has enough resources to outsource their fact-checking to an external body, and for such a system to be established well in time for the 2024 election.

We note the Electoral Commission's report that their market research found 81% of people who noticed the new 'Check the source' campaign found it useful<sup>6</sup>. We would be interested to find out more about how exactly these respondents found it useful, and what more could be learned from that campaign. We are dubious that this campaign by itself would assist voters to understand whether statements from political parties were factual, however, we believe it would be excellent combined with the new truth in advertising legislation.

## AUTHORISATION OF MATERIAL

The ACT Greens believe that the changes made to the Electoral Act in time for the 2020 election in relation to authorisations of political material were improvements. We also agree with the ACT Electoral Commission's recommendations 14, 15, 16 and 17 in their April 2021 Report on the 2020 Election<sup>7</sup> in relation to authorisations of printed materials and social media. We would strongly support clarification of the minimum font size required for both smaller materials, as well as larger-scale signage. We would also note that the federal election requirements include stating where the materials are printed, which could help with transparency of electoral expenditure.

## INFORMATION ABOUT CANDIDATES

### ROADSIDE SIGNAGE

We note that Item 18 of Appendix 2 - Agreed Legislative Reform of the 2020 ACT Parliamentary and Governing Agreement<sup>8</sup> requires action to:

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<sup>6</sup> p.29 [https://www.elections.act.gov.au/\\_data/assets/pdf\\_file/0007/1746097/2020-Election-report.pdf](https://www.elections.act.gov.au/_data/assets/pdf_file/0007/1746097/2020-Election-report.pdf)

<sup>7</sup> [https://www.elections.act.gov.au/\\_data/assets/pdf\\_file/0007/1746097/2020-Election-report.pdf](https://www.elections.act.gov.au/_data/assets/pdf_file/0007/1746097/2020-Election-report.pdf)

<sup>8</sup> [https://www.cmtedd.act.gov.au/\\_data/assets/pdf\\_file/0003/1654077/Parliamentary-Agreement-for-the-10th-Legislative-Assembly.pdf](https://www.cmtedd.act.gov.au/_data/assets/pdf_file/0003/1654077/Parliamentary-Agreement-for-the-10th-Legislative-Assembly.pdf)

“Further restrict roadside electoral advertising including further regulation of roadside corflutes and introduce specific offences for roadside advertising using illegally parked or idling vehicles for commercial or political purposes.”

Under current laws, there is currently no limit on how many signs can be displayed in any one area in the ACT – this can see thousands of plastic roadside corflutes flood the streets of Canberra six weeks out from each ACT election, which can be annoying and distracting for drivers<sup>9</sup>. The Greens have not used roadside corflutes since the 2016 ACT election, and instead for the 2019 and 2020 elections, corflutes were displayed in private yards or held by volunteers for limited times. This avoided the waste of thousands of plastic corflutes being destroyed often within hours of being erected.

The ACT Electoral Commission's report on the Legislative Assembly Election in 2016 noted that social media "indicated a relatively widespread degree of dissatisfaction with the proliferation of campaign signs (principally the signs on stakes known as corflutes) across Canberra's main roads and suburban streets" – but stopped short of recommending that the roadside electoral signs be banned entirely. A September 2020 Riotact poll of 913 people showed that 82% of people would like to see roadside election corflutes banned<sup>10</sup>.

Despite signs being recycled in a range of different ways – including as house insulation, building chooks sheds, as habitat for local wombats or painted over for protest signs, or even sent to Victoria for material recycling, the ACT Greens believe that this is an unnecessary waste of resources.

We note that any changes to these rules would follow through to the *Public Unleased Land Act 2013* and its 2019 Code of Practice, thus any changes to this legislation would also apply to all other elections held in the ACT, including Federal Elections and referenda.

**Recommendation 2:** That fixed roadside election signs either be completely banned, or otherwise specific and limited areas to be made available for this purpose. That front yard signs be excluded from this prohibition.

## ONLINE INFORMATION ABOUT CANDIDATES

There are far more effective ways for political parties to get their message across without visual pollution cluttering up our public space. Many of the signs are largely policy-free and generally not highly informative. Following the successful passing of Caroline Le Couteur MLA's amendment, the 2020 ACT Election saw the advent of online information about each candidate

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<sup>9</sup><https://www.abc.net.au/news/2016-09-28/act-election-canberra-roads-crammed-with-advertising-signs/7885852>

<sup>10</sup> <https://the-riotact.com/probing-the-polls-border-exemptions-and-campaign-corflute-wars/406531>

being made available on the Elections ACT website<sup>11</sup>, which was the only reliable, government hosted complete source of information on all candidates. Even if a candidate had not sent in information, at least the community could see that they had been nominated. Roadside signs do not allow such information to be available to the public. With the advent of widespread use of QR codes for venue check in during COVID-19, the ACT Greens recommend the provision of QR code posters to facilitate access to online information.

The 2020 election was the first time that this service was made available to candidates and the public. However, the timing of the legislation passing before the election did not allow for this to be well factored into public information campaigns from Elections ACT. Ideally Elections ACT should ensure that the public understand this information is available on their website, in their printed information materials, and should be reiterated in ballot booths, the website URL being displayed in each booth.

We note the Elections ACT commentary in their recent report about the legislative timing requirements meaning that they were only given 3 days to review and upload the information for all candidates running in the election (137 in 2020)<sup>12</sup>. We support their Recommendation 7 that increases the timeframe they must undertake the work in uploading the information by allowing candidates to submit information anytime from the time of their nomination being lodged.

We strongly disagree with Elections ACT's Recommendation 6, calling for the provisions requiring this candidate information to be removed<sup>13</sup>. Noting their commentary about the lack of time to review and upload it (and therefore the short amount of time the information was online), and the low numbers of people who accessed it, combined with the fact that there was little publicity that the information was there at all, 8.8% of voters accessing the information instead tells us that there was a need for the information to be there. Instead, we would strongly support the increased time of availability of the information, along with more promotion.

We also note the Commission's commentary about *smartvote* and its higher user access numbers. However, it is worth noting that *smartvote* had very high online marketing presence to get those rates, and the people who accessed the candidate information on the ElectionsACT website found their way there themselves, showing the interest and benefit of this information. We also note that *smartvote* is an independent service, not required by legislation and therefore it cannot be relied on in the long-term.

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<sup>11</sup><https://www.elections.act.gov.au/elections-and-voting/2020-legislative-assembly-election/candidate-statements>

<sup>12</sup> p.32 [https://www.elections.act.gov.au/\\_data/assets/pdf\\_file/0007/1746097/2020-Election-report.pdf](https://www.elections.act.gov.au/_data/assets/pdf_file/0007/1746097/2020-Election-report.pdf)

<sup>13</sup> p.31 [https://www.elections.act.gov.au/\\_data/assets/pdf\\_file/0007/1746097/2020-Election-report.pdf](https://www.elections.act.gov.au/_data/assets/pdf_file/0007/1746097/2020-Election-report.pdf)

### **Recommendations 3:**

3a - That Elections ACT proactively inform the public about the candidate information available on their website and provide QR code access to HTV materials, including in polling booths.

3b - That candidates can submit their candidate statements anytime from the time of their nomination being lodged.

## **INDEPENDENT VOTER INFORMATION ABOUT CANDIDATES**

In the 2020 ACT Election, the *smartvote*<sup>14</sup> app was made available for ACT voters for the first time in an ACT election, after first being introduced in Australia for the 2019 Federal Election. This app worked in a similar way to the ABC's political compass system, whereby a limited number of questions of interest to the electorate at the time were put to each party and each candidate, and their responses were input into an app, so that voters could compare their positions to those of candidates in their electorate.

While there is certainly room for improvement on this app, as some of the types of questions and answers give a slightly confusing scale, or double negative, it was an improvement for voters who were not sure who best represented their views.

The ACT Greens are strongly supportive of this type of app - it is easy access and useability created a way for voters to make more sense of the many messages coming from the many political parties, particularly noting that 16 parties ran in the 2020 election. *Smartvote* has existed and been used overseas in over 250 elections<sup>15</sup>, but is relatively new in Australia, despite the ANU School of Politics playing a key role in its development.

A UK report on democratic systems and how information and discourse can be improved has highlighted the benefits of the use of such 'voting advice applications'.<sup>16</sup> It should be noted that governments publicising any relevant deliberative democracy findings is also recommended.

Unfortunately, Elections ACT did not see that they should play any role whatsoever in this process and did not publicise it at all. The Greens believe that given that *smartvote* provides a politically independent opportunity for voter information, that it would be reasonable to publicise its existence.

**Recommendation 4:** That the Committee consider the best way to fund and publicise the *smartvote* app if it is available in the 2024 election.

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<sup>14</sup> The ACT smartvote questions: <https://smartvote.org/org/en/home>

<sup>15</sup> <https://smartvote.org/>

<sup>16</sup> <https://www.ucl.ac.uk/constitution-unit/news/2019/mar/new-report-doing-democracy-better>

## POLLING PERIOD/ ELECTION DAY

### **INCREASING VOTER TURNOUT AND PARTICIPATION IN ELECTIONS AND ENCOURAGING POLITICAL ACTIVITY**

The Greens are strongly supportive of improvements to our electoral system that increase voter turnout and participation in elections and encourage political activity more broadly. We live in an age where there is generally growing discontent and apathy about governments, and it is important that we shape a system that makes it as easy as possible for people, particularly young people, to engage in our ACT political system.

#### **ENROLMENT TO VOTE**

The ACT Greens are positive about the new laws introduced in 2020 that provide for new enrolments on the ACT electoral roll up to 6pm on polling day. However, there was confusion about the difference between persons enrolling to be on the ACT electoral roll for the first time, versus those who were changing their address or other details within the ACT. The change to the legislation only included allowing “ACT citizens, who were not currently on the ACT electoral roll, to enrol to vote in an election up to and including on election day”.

Elections ACT promoted the deadline for people to change their address within the ACT which was many weeks before the election, and it publicised the closing date for that as well. However, this deadline was confusing given the fact that new electors in the ACT could enrol up to 6pm on polling day. This needs to be clarified in the legislation before the 2024 Election to reduce this confusion.

We do not believe that there was an intention to create two different sets of rules and deadlines for changes to the electoral roll when the amendments were passed in 2020, and instead there should be one single deadline that can be clearly publicised to reduce voter confusion.

**Recommendation 5:** People who are already on the ACT electoral roll who wish to change their address within the ACT should also be able to do that up to 6pm on polling day, and the legislation should be adjusted accordingly to align with the rule for people new to the ACT electoral roll.

#### **LOWERING THE VOTING AGE**

The ACT Greens believe in empowering the next generation to be involved in the decisions that will impact them. We also believe that in a healthy democracy, young people should be supported to be engaged and active public citizens.

For too long government policy has excluded the next generation from decisions that will impact them. Nowhere is this clearer than the climate emergency. No one under 40 years old has even lived in a year with global average temperatures below those of last century.

The Greens believe that the views and interests of children and young people must be given the same weight when it comes to the decisions that affect our future. The children and young people of today will inherit the world of tomorrow. It is up to us to leave them with a healthy, resilient environment. But even more, it is up to us to empower them to have a real voice in the future of our society, and to listen to what they are saying.

Students are learning about climate change - learning about the science and about the solutions and demanding that Governments act. Yet when children and young people take action to speak out in politics, their voices are minimised, and their judgement questioned. If young people wish to take part in our democracy, they should have that option. We should give them a chance to have their say where it counts most – at the ballot box.

The Greens have consistently argued for voluntary voting to be an option for young people aged 16 and 17. These young people can legally work full-time. If they are working, they pay taxes. They can drive a car, have sex, and make medical decisions about their bodies. They can join the Army, Navy or Air Force. They can sign a lease or join a political party – yet they cannot vote.<sup>17</sup>

Aside from the reluctance of the old parties on this matter, there is also a legal issue. A commonwealth law, the *Australian Capital Territory (Self-Government) Act 1998*, specifically states that voters in territory elections must be eligible to vote in federal elections, and the federal electoral legislation says that voters must be at least 18. Until one or both federal laws are changed, it seems that the ACT Assembly cannot give young people the vote. (We do however note that in federal elections if someone is sentenced to imprisonment for 3 years, they are not eligible to vote, however this has not been the case for ACT elections since 2008. Therefore, this issue may be more easily resolvable than previously thought.)

The ACT Greens believe that the ACT should have the same rights as the states to make laws about voting eligibility. That is why we will continue to advocate for the Commonwealth Government to amend the Self Government Act to allow the ACT Assembly to determine who can vote in ACT elections.

**Recommendation 6:** That the ACT Government advocate to federal counterparts that the Commonwealth's *Australian Capital Territory (Self Government) ACT 1988* should be amended to allow for the ACT to determine who may vote in the ACT, rather than being bound by the Commonwealth's electoral legislation.

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<sup>17</sup> <https://greens.org.au/act/news/act-greens-call-optional-voting-16-and-17-year-olds>

## RESTRICTIONS ON CAMPAIGNING ACTIVITIES OUTSIDE POLLING PLACES

As outlined in previous Election Reports prepared by the Electoral Commissioner, there have been ongoing practical challenges in ensuring compliance with the 100-metre rule. In 2012, parties and candidates were given maps clearly demarcating the 100-metre boundary, and we note the 2012 Commissioner's report that complaints about compliance with the 100-metre rule did reduce then. However, copious systematic breaches of the rule were still observed and reported to the ACT Greens campaign team. In 2016 complaints about such breaches were higher than both 2012 and 2008 - we have not yet seen the statistics from the 2020 election due to the Commission's report not yet being available.

The ACT Greens submit that a range of options surrounding the modification of the 100-metre rule should be considered to address systemic issues with the enforcement and thus compliance with the rule, and to ensure that voters are provided with the information they may require at the polling booth.

Our preferred option would be to change the arrangements for ACT Elections to a 6-metre rule, as used at Federal Elections. We believe that the 6-metre rule is easier to staff and enforce than the 100-metre rule, and thus we would not have a system whereby those who flout the rules create illegal advantages that are rarely enforced with any consequence. This would create a more level playing field across parties given that some are more likely than others to regularly flout the 100 rules. This change would also benefit voters who are often confused by the 2 different sets of rules for ACT and Federal Elections.

Supplementary measures such as restricting election day advertising bunting, restricting the number of party volunteers or signage per polling booth could be considered to moderate parties' presence on Election Day, and ensure a less confronting environment for voters.

**Recommendation 7:** The ACT Greens support a 6m rule to align with the federal elections, to reduce voter confusion and to improve enforcement abilities.

## BALLOT PAPER

The ACT Greens submit that the voting instructions on the ballot paper should be made clearer and avoid the potential unintended consequence of encouraging voters to only number the inferred minimum required of 5 or 7 candidates. The Hare-Clark system has a preferential system, and the instructions to voters should not imply that full preferences would not flow beyond the number of members in each electorate or that voting beyond 5 or 7 has no value.

It is also important that people do not repeat numbers, to avoid people numbering 1-5 within every column, thus rendering the whole vote invalid.

**Recommendation 8:** The ACT Greens suggest the following wording be used as clear instruction on ballot papers: “Write numbers from 1 onwards, up to as many numbers as you wish. Use numbers only and use each number only once.”

## INFORMATION FOR VOTERS

The Greens are incredibly pleased about the efforts made by Elections ACT in 2020 to reach out to people in languages other than English, as well as to various people with disabilities, across a variety of media in the lead up to the election.

We are also strongly supportive of the additional information provided for those people who voted electronically who were given access to instructions for voting in 12 different languages, including Arabic, Chinese, Croatian, English, Greek, Italian, Lao, Persian (Farsi), Serbian, Spanish, Turkish and Vietnamese<sup>18</sup>. However, we believe that this multilingual information on voting should also be made available for people voting at all polling places and for paper ballots.

**Recommendation 9:** That information in multiple languages is continued to be made available in future elections and is also made available for people who are not voting electronically and at all polling places.

## ELECTRONIC VOTING

The ACT Greens note that electronic voting has many advantages, including less paper usage, fewer informal voters, faster election results and easier processes for facilitating a countback. However, we also have some concerns about some bugs in eVACS - the electronic voting system we use in the ACT, and transparency and ability to audit electronic voting. The obvious scrutiny advantages of a paper trail with traditional voting can be difficult to match under an e-voting regime.

We note the more advanced approaches taken in other jurisdictions such as Estonia.<sup>19</sup> Estonia has implemented full internet voting (not just screen voting at polling booths). Using sophisticated community consultation, scrutiny of software, real time reporting of votes, transparent hashing of data and other measures, Estonia has achieved strong community trust and support for e-voting.

One interim modification to our current process could be the production of a paper printout of each vote (not just the barcode as present) which is then dropped in a ballot box for audit or

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<sup>18</sup> <https://www.abc.net.au/news/2020-09-28/where-how-vote-pre-poll-act-election/12709190?nw=0>

<sup>19</sup> [https://www.researchgate.net/profile/Thad-Hall/publication/220764785\\_Improving\\_the\\_Transparency\\_of\\_Remote\\_E-Voting\\_The\\_Estonian\\_Experience/links/5630d3d808ae0530378cddc4/Improving-the-Transparency-of-Remote-E-Voting-The-Estonian-Experience.pdf](https://www.researchgate.net/profile/Thad-Hall/publication/220764785_Improving_the_Transparency_of_Remote_E-Voting_The_Estonian_Experience/links/5630d3d808ae0530378cddc4/Improving-the-Transparency-of-Remote-E-Voting-The-Estonian-Experience.pdf)

validation of a disputed poll. Mixing electronic and paper voting may be problematic, and we urge the Commission to engage with the community to explore improved audit methods.

We note the Elections ACT comments about some electors not finishing their electronic vote and support their proposal that “ballot box supervisors ... are instructed to ask exiting voters whether they had seen the green ‘vote accepted’ screen before leaving their terminal” in the 2024 election.<sup>20</sup>

As a simple transparency measure, we would also support the presentation of the current software code version on the voting screen.

It was noted that although the eVACS code is supposed to be provided for examination and testing prior to polling commencing, this did not occur in 2020. Release of the code at a previous election revealed minor flaws which were corrected. Public confidence in the software requires timely exposure of the code for scrutiny by software professionals. We support the recommendation of the expert report by Dr Vanessa Teague and Andrew Conway (*Errors in the ACT’s electronic counting code*)<sup>21</sup> that the eVACS source code be provided for public examination at least 6 months prior to the election.<sup>22</sup>

### **Recommendations 10:**

10a - That Elections ACT considers a paper printout of electronic votes which could be put in the ballot box as an auditable vote rather than just the barcode, as well as the software code version number be displayed on the voting screen.

10b - That the Committee and Elections ACT investigate improved community engagement, software exposure, audit processes and transparency measures such as those used in Estonia.

10c - That a steering group be established by the Commission that includes software and voting experts to investigate improved electronic voting processes.

### **OVERSEAS ELECTRONIC VOTING**

The Greens note that 2020 was the first ACT election whereby people were able to vote electronically remotely, i.e., from outside the voting centre. This enabled ACT residents living overseas, as well as Australian citizens in Antarctica to vote from overseas. Given the international impacts of COVID-19, this was a very well-timed innovation, which we understand

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<sup>20</sup> p.36 [https://www.elections.act.gov.au/\\_data/assets/pdf\\_file/0007/1746097/2020-Election-report.pdf](https://www.elections.act.gov.au/_data/assets/pdf_file/0007/1746097/2020-Election-report.pdf)

<sup>21</sup> <https://www.canberratimes.com.au/story/7027348/act-electronic-voting-system-flawed-experts-say/>

<sup>22</sup> <https://www.canberratimes.com.au/story/6952696/cyber-experts-call-for-more-transparency-on-act-electronic-voting-system/>

Elections ACT worked hard to achieve in the timeframe. This process is far simpler than the overseas postal vote system, which has many flaws, including the numerous overseas postal systems relied upon especially during COVID impacts. We note that the electronic voting process made available for these overseas voters in the 2020 Election seemed to be extraordinarily successful, and we would support this continuing for future elections.

**Recommendation 11:** That electronic voting options for overseas voters be continued.

### INTERSTATE ELECTRONIC VOTING

Given that in 2020 people were able to vote electronically remotely, i.e., from outside the voting centre, it would be logical to extend this option to other reasons people are not able to vote in person. In NSW, voters can use online or telephone voting if they are unable to attend a polling booth in person for reasons of being overseas or interstate<sup>23</sup>. The ACT Greens would like to see this option offered in the ACT, particularly noting the exceptionally low rates of interstate voting (111 voters in total) in the 2020 ACT Election<sup>24</sup>.

**Recommendation 12:** That interstate voters be able to use the online or telephone eVACS system.

We note that offering ongoing electronic voting for overseas and electronic voters would also decrease the rates of postal votes, which are more work for all entities involved in the process overall.

### TELEPHONE VOTING OPTIONS

The ACT Greens strongly support the telephone voting option that has long been available for people with disability. The system that was in place in 2020, whereby people with vision impairment were able to use the eVACS system over the telephone, giving them privacy in placing their vote is a great advancement. We strongly support the Commission's Recommendation 8, calling for the supporting legislation for this system to be reinstated on an ongoing basis<sup>25</sup>.

We note that Elections ACT also proposes providing this option to electors in Antarctica on an ongoing basis, which we support. Given that voters in Antarctica would now be able to have access to both electronic and telephone eVACS voting options, it would then be logical to include them as compulsory voters, as outlined in the Commission's Recommendation 9.

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<sup>23</sup> <https://www.elections.nsw.gov.au/Voters/Other-voting-options/Interstate-or-overseas>

<sup>24</sup> p.40 [https://www.elections.act.gov.au/\\_data/assets/pdf\\_file/0007/1746097/2020-Election-report.pdf](https://www.elections.act.gov.au/_data/assets/pdf_file/0007/1746097/2020-Election-report.pdf)

<sup>25</sup> p.38 [https://www.elections.act.gov.au/\\_data/assets/pdf\\_file/0007/1746097/2020-Election-report.pdf](https://www.elections.act.gov.au/_data/assets/pdf_file/0007/1746097/2020-Election-report.pdf)

### **Recommendations 13:**

13a - That people with vision impairment and voters in Antarctica are both given ongoing access to telephone voting through eVACS

13b - That voters in Antarctica are required to vote, as with all other eligible ACT voters.

### **VOTE COUNTING AND SCRUTINY**

The ACT Greens acknowledge the scanning and processing of paper ballots was overwhelmingly conducted with integrity and professionalism by Electoral Commission staff. In general, our party scrutineers were able to access the process as required except in a few cases during the opening of ballot boxes and bags when prevented by space restrictions and pandemic distancing rules. The requirements for physical distancing were well handled during the three-stage ballot scanning validation process with the use of large duplicate computer screens.

As is usual, there were instances of misaligned scanners misinterpreting boxes and voters' marks, but these were always referred to the supervisor for adjudication.

If physical distancing requirements are still in place in the 2024 election, the ACT Greens would welcome a meeting with the Electoral Commission to exchange experiences and offer suggestions on the scrutiny process to ensure adequate arrangements are in place under pandemic conditions.

### **PENALTIES FOR NOT VOTING**

The ACT Greens note Elections ACT's recommendation to double the penalty for not voting in an ACT election to \$40 as issued in a penalty notice. We believe it would therefore be justified to reflect this amount with the maximum penalty for the offence (including if going through the court system) being set at a quarter of a penalty unit.

We would strongly prefer implementation of a fairer, or income-based, fine system in this situation. However, we understand that at present this is difficult for the ACT Government to put in place given its lack of ability to access information about peoples' incomes. We would strongly encourage the development of a fairer, tiered fines system as an alternative.

# IMPACT OF COVID-19 ON THE ACT ELECTION

## EARLY VOTING PERIOD

One major impact of COVID-19 on the election campaign for political parties was the increased number of sites for early voting. This was certainly the appropriate action for COVID safety. However, having so many sites with the extended polling period makes it harder for political parties to be able to communicate their platforms to voters. Returning to a smaller number of polling sites, especially for the first week of early voting would still allow for those who need to vote early, but the Greens believe that focusing on expanding polling sites in only the latter two weeks of early voting would be the best outcome for voters, parties and of course Elections ACT.

The ACT Greens support early voting being available to all voters, without the need to state that you will be working or interstate on the final polling day itself.

## THE NUMBER AND LOCATION OF ORDINARY POLLING PLACES

The ACT Greens are satisfied with the number and location of ordinary polling places made available in the 2020 election.

## MOBILE POLLING STATIONS

The ACT Greens are concerned that the usual mobile polling places were not made available in hospitals, nursing homes or the Alexander Maconochie Centre due to COVID-19 safety measures in 2020. While postal voting was theoretically made available, it is unclear how widespread this take-up was. Problematically there was certainly no systematic way for voting information, party how-to-vote cards and party information to be circulated in these places<sup>26</sup>. This meant that thousands of people who were eligible and would normally be able to vote in the ACT were likely disenfranchised.

We believe that strong COVID-19 safety measures could have been used to ensure both voter and staff safety, as well as allowing people to engage in our democratic system.

We note that in the last NSW election eligibility for online voting included people who are vision impaired, have a disability, are a silent elector, live more than 20 km from a voting centre as well as those who would be interstate or overseas on polling day. Given that in the 2020 ACT election, overseas voters could use online voting, it would have been better if these voters who were unable to access mobile polling stations were instead able to use online voting options.

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<sup>26</sup> <https://www.canberratimes.com.au/story/6960825/how-to-vote-in-jail-prisoners-left-in-the-dark/>

**Recommendation 14:** That mobile polling stations be used where and when appropriate for all elections, including in hospitals, nursing homes and the Alexander Maconochie Centre, to broaden participation in voting, and information about parties and candidates should also be made available. This information could be through URL access to the Elections ACT website links to candidates.

Consideration should also be made in cases where mobile polling stations are not able to attend for those people to do online voting.

## FUNDING ISSUES

### ELECTION FUNDING

In time for the 2012 ACT election, several major changes were made to the ACT electoral funding system:

- donations were restricted to only individuals on the ACT electoral roll, essentially stopping large corporate donations;
- donations were restricted to \$10,000 maximum per individual;
- all funds donated to political parties for the purposes of the ACT election were to be put into specific ACT election bank accounts; and
- administrative funding for the parties with MLAs was created, to manage the costs of the additional bank account.

As a response to shifting political party income away from corporate donations, parties agreed to increase public funding for political parties to \$8 per vote (an increase of almost fourfold) for any party meeting the minimum 4% vote in an electorate.

In 2012 the Legislative Assembly made a major and principled reform so that only people that can vote in an ACT election can donate to fund candidates in an ACT election. This makes sense from a democratic representation point of view - why should entities that do not have the right to vote have a right to fund political parties' election campaigns? They do so for the same reasons as they make other expenditures - they seek an advantage or positive outcome.

However, in 2015, in time for the 2016 election, somewhat in response to NSW and High Court case outcomes, the major parties agreed to remove these restrictions on corporate donations. However, these additional income streams were also retained.

The ACT Greens maintain that if corporate donations are allowed, then the public funding per vote should be reduced again; and if no separate bank account is required to be held specifically for the ACT election, and each donation does not need to be checked against the electoral roll, then the administrative funding should be reduced.

## **RULES AROUND DONATIONS (GIFTS)**

Many highly democratic countries provide some level of public funding of elections so that parties and candidates can run an effective election campaign, without relying on large donations. The public policy justification for this is to ensure that candidates are not beholden to donors who make large donations, and to reduce corruption and inappropriate influence of elected officials.

As noted above, the current public funding is generous. This funding, when combined with capped donations from individuals, should be ample to run an election campaign in the ACT. It is important that we avoid a situation developing where only parties or candidates with incredibly significant donations resourcing can be competitive in an ACT election.

In 2015 the Labor and Liberal parties voted to remove the previous cap of \$10,000 per year on electoral donations. Thus, there is currently no cap on donations, although donations of more than \$1,000 from any individual or entity must be reported by Elections ACT.

### **CAPPING DONATIONS AT \$10,000**

People donate money to political parties or candidates for two primary reasons: either because they support a political party or a candidate's views or policy platform, or to influence a political party or a candidate's views or policy platform. The Greens believe that corporations should not have a disproportionate influence over politics, regardless of whether donations are capped at a certain amount. The primary obligation of companies, especially those with shareholders, is to ensure their business is sustainable, and hopefully makes a profit. When it comes to public policy, what is important for a corporation is being able to operate in an environment where governments reduce any impediments to their business activities and develop public policy that serves their business interests. The interests of corporations do not always align with the best interests of voters, and we believe that it is important that people are put before corporations.

The Greens would like to see the cap put back on donations. We believe that \$10,000 is generous - it is certainly much higher than the donation limit in Victoria, currently set at \$4,000 across a four-year parliamentary term (or \$1000 per year). Whilst we would ideally support a lower limit, we would like to at a minimum see the \$10,000 limit that was in place until 2015, for donations from any one individual, corporation, or associated entity in any one financial year.

This means that people or corporations will not be able to circumvent the donation cap by donating more than \$10,000 across associated entities.

We believe that this limit is justified, given the potential for some donors to make exceptionally large donations, which may result in a significantly increased level of access to MLAs and influence in political decision making compared to the rest of the voting population.

A system where an oligarchy, corporation, or an individual or sector with a vested interest in the outcome of an election or the actions of elected representatives may influence outcomes through large political donations is undesirable.

**Recommendation 15:** That electoral donations, or gifts, are capped at \$10,000 per financial year for all individuals, corporations, or associated entities.

## **PRE-ELECTION DISCLOSURE**

The ACT Greens support strengthening the pre-election disclosure regulations. As it stands, parties can receive donations within the final 7 days before Election Day and disclose after Election Day itself. We submit that any donations received up to 48 hours before Election Day should be required to be reported by 6 am on Election Day itself.

**Recommendation 16:** Donations of over \$1000 received within the final 48 hours before Election Day should also be subjected to the disclosure rules as outlined in s.216A of the *Electoral Act 1992*.

## **FEDERAL ELECTION DONATION LAWS**

While the ACT disclosure rules around electoral donations provide for excellent transparency, the ACT Greens are concerned about a loophole that permits donations to federal parties to be unreported. This is then able to be exacerbated by parties making internal funds transfers. Michael Moore highlights this in his article in City News:

“The 2019 federal legislation means the particulars of any donation that has not expressly been identified as being for use by the ACT section of the registered party, or for ACT electoral purposes, is not required to be disclosed to the ACT Electoral Commission as a gift”.<sup>27</sup>

The ACT electoral financing laws in place at the 2012 election required each party to have a specific bank account for all ACT election income and expenditure. This meant that only funds donated to the party for ACT election purposes could be spent on ACT elections. While we note that this cannot be solved through unilateral ACT legislation, we strongly recommend that the ACT Government and MLAs advocate for the necessary reform of the federal legislation to fix this serious problem.

### **Recommendations 17:**

17a - That the ACT Government and MLAs advocate for federal donations legislation reform to close loopholes that allow for unreported political donations.

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<sup>27</sup> <https://citynews.com.au/2021/transparency-lost-in-election-donation-returns/> 9 February 2021.

17b - That the Committee consider the benefit of returning to requirements for ACT election specific bank accounts for parties.

### **BROADENING ENTITIES THAT ARE PROHIBITED FROM ELECTORAL DONATIONS**

We note that in July 2021 the legislation passed in August 2020 to prohibit donations from developers will commence. The Greens would like to broaden the types of entities that are prohibited from donating to political parties from only developers. We understand that the present laws have minimal restrictions, to reflect the High Court case which found that restricting political donations can be seen as restricting political freedom of expression. However, in the case of developers, it was found that political donations could cause undue influence on government decisions and therefore the donation restriction was seen as fitting and just.

By introducing a ban on donations from property developers, the ACT legislation that will commence in July 2021 seeks to address this issue for one sector—the property development industry—where there have been proven issues of corruption, albeit in NSW. In *McCloy vs NSW* [2015] HCA 34, the High Court upheld the NSW Government’s restrictions on political donations by property developers.

The same NSW legislation that currently restricts political donations from property developers the Electoral Funding Act 2018 (NSW) also bans donations from tobacco, liquor, and gambling industries. Although it has been in effect for some time through its previous 2011 iteration, the NSW ban on donations from these other industries has yet to be challenged or tested in the courts.

The Greens propose extending the ban on political donations from property developers to include gambling businesses because gambling entities are much more likely than many other organisations or sectors to be in positions where relatively simple changes in Government policy can have major implications for their viability and profitability. Such changes could include a cap or an increase in the number of poker machines allowed in a single venue or across the ACT, the reduction or increase in bet limits, or the introduction of pre-commitment requirements for gamblers.

In the ACT it is estimated that the liquor and tobacco industries have less political interest and influence and do not need to be expressly prohibited from donating, as can be seen by the fact that they do not donate to political parties in the ACT.

Gambling interests were a key part of the 2016 ACT election. ClubsACT, a grouping of licensed clubs, ran an advertising campaign, which informed their members that ACT Labor planned to “destroy” licensed clubs. It included broadcast and print ads, drink coasters, posters in clubs,

and advertising on the back of Canberra's taxis.<sup>28</sup> Such a campaign and associated expenditure would not be affected by this proposal.

At the same election, however, a party called Canberra Community Voters, with similar aims in relation to clubs and poker machines, ran candidates and received a \$100,000 donation from ClubsACT. Such a donation would not be permitted under this proposal.

The Greens believe that there is no place for gambling money in politics.

The Legislative Assembly's Standing Committee on Justice and Community Safety (Scrutiny Committee) examined a number of these amendments proposed by Caroline Le Couteur MLA in its March 2019 report. Regarding the proposed inclusion of gambling entities as prohibited donors, the report noted that these amendments may:

*Limit the right to freedom of expression protected by section 16 of the Human Rights Act 2004 (HRA) and potentially the right to take part in public life protected by section 17 of the HRA. By distinguishing donations from gambling businesses, the bill may also limit the right to equality before the law protected by section 8 of the HRA.*

We note that section 28 of the HRA allows for human rights to be limited if that limit is reasonable.

Minister Ramsay's Explanatory Statement for the Electoral Amendment Bill 2018 notes that:

*The Senate Select Committee into the Political Influence of Donations reported in June 2018 and made a recommendation that the Australian Government amend the Commonwealth Electoral Act 1918 to introduce a ban on donations from developers and a range of other industries to political parties, candidates and associated entities.*

Indeed, Recommendation 9 of the Report from the Senate Committee Inquiry into the Political Influence of Donations called on the Australian Government to:

*introduce a ban on donations from developers, banks, mining companies and the tobacco, liquor, gambling, defence and pharmaceutical industries to political parties, candidates, and associated entities.<sup>29</sup>*

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<sup>28</sup> <https://www.smh.com.au/national/act/clubsfinanced-campaign-falls-woefully-short-for-canberra-community-voters-richard-farmers-party-20161016-gs3bqc.html> (accessed 14 July 2020).

<sup>29</sup> Senate Select Committee Into the Political Influence of Donations (2018:91) Commonwealth of Australia. Available at

In their submission to the abovementioned Senate Inquiry which analyses this in detail, Dr Charles Livingstone and Ms Maggie Johnson from the Gambling and Social Determinants Unit at the School of Public Health and Preventative Medicine at Monash University, note that “the Australian gambling industry has utilised political donations as a mechanism to exert considerable influence over relevant public policy”.<sup>30</sup>

**Recommendation 18:** That for-profit gambling entities are included in entities that are prohibited from making political donations in the ACT.

## REPORTING AGENT

The ACT Greens support the mechanism in the legislation whereby the appointment of a Reporting Agent automatically cancels the appointment of any previously appointed Agent. However, we would also like an additional provision which allows for the appointment of multiple Reporting Agents to assist with ongoing compliance with reporting requirements when clearly nominated.

The ACT Greens support allowing for the appointment of alternate agents. During prolonged periods where the 7-day gift disclosure deadline applies an alternate agent would help address the added compliance burden and provide coverage if a reporting agent were unable to fulfil this duty short-term.

Concerns relating to the ability of the Electoral Commission to identify the specific person responsible for lodging a disclosure return could be addressed by allowing parties to identify a “Principal Reporting Agent” with whom the ultimate responsibility for the lodgement of returns rests, along with an “Alternate Reporting Agent” who may lodge returns on their behalf. The Principal Reporting Agent would carry any liability for breaches of disclosure requirements.

**Recommendation 19:** That a provision be made to allow for an ‘Alternate Reporting Agent’, to assist with reporting duties in peak times.

## EXPENDITURE CAPS

Reducing campaign expenditure is an important way to ensure a more level playing field in election campaigning. Under existing legislation, there is an indexed cap on ACT electoral

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[https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/024147/toc\\_pdf/PoliticalInfluenceofDonations.pdf;fileType=application%2Fpdf](https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/024147/toc_pdf/PoliticalInfluenceofDonations.pdf;fileType=application%2Fpdf) (accessed 16 April 2019).

<sup>30</sup> Livingstone and Johnson (2017:2) “Submission to the Senate Select Committee into the Political Influence of Donations”. Available at [https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/024147/toc\\_pdf/PoliticalInfluenceofDonations.pdf;fileType=application%2Fpdf](https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/024147/toc_pdf/PoliticalInfluenceofDonations.pdf;fileType=application%2Fpdf) (accessed 16 April 2016).

campaign expenditure, currently \$42,750 per party candidate. This is capped at a maximum of 25 candidates (5 candidates for each of the 5 electorates) for party groupings, allowing for a maximum of \$1,068,750 million total expenditure for a party fielding 25 candidates.<sup>31</sup>

This means that the larger parties, which both ran 25 candidates in the 2016 and 2020 elections, will have had a party expenditure cap of over \$1 million. Large parties are offered a significant advantage in their spending as they can pool multiple candidate allocations of \$42,750 across their campaign expenditure.

Large parties, already entrenched in the political system, will continue to be able to outspend smaller parties and individual non-party (independent) candidates, and thus dominate the media and communications landscape. Smaller parties and independents, which do not have the advantage of pooling resources, are significantly disadvantaged in so far as they are restricted to a maximum of \$42,750 expenditure per candidate.

The ACT Electoral Commission in its report on the 2016 election recommended that the Assembly consider amending 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.<sup>32</sup>

The Greens agree that creating different expenditure caps for party and non-party candidates would be beneficial for democracy, diversity, and independent voices, and we propose that the campaign expenditure cap for non-party candidates be increased to \$60,000.

We believe this is justified, as non-party candidates are at a significant disadvantage in campaigning due to the nature of their candidacy being electorate specific, which does not reflect most media in the ACT. Furthermore, non-party candidates are less likely to receive bulk discounts that parties receive, for example, discounts in printing for large quantities. As such, a higher expenditure cap for non-party candidates will allow them to effectively campaign and not have their implied right to political communication found in the Commonwealth Constitution impermissibly burdened.

**Recommendation 20:** That a higher campaign expenditure cap of \$60,000 for non-party candidates be introduced.

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<sup>31</sup> As calculated using s.205E of the *Electoral Act 1992*, and outlined in [https://www.elections.act.gov.au/publications/act\\_electoral\\_commission\\_fact\\_sheets/fact\\_sheets\\_-\\_general\\_html/fact\\_sheet\\_-\\_electoral\\_expenditure\\_cap](https://www.elections.act.gov.au/publications/act_electoral_commission_fact_sheets/fact_sheets_-_general_html/fact_sheet_-_electoral_expenditure_cap) (accessed 14 July 2020).

<sup>32</sup> [https://www.elections.act.gov.au/data/assets/pdf\\_file/0016/1044016/Report-on-the-ACT-Legislative-Assembly-Election-2016.pdf](https://www.elections.act.gov.au/data/assets/pdf_file/0016/1044016/Report-on-the-ACT-Legislative-Assembly-Election-2016.pdf) (accessed 14 July 2020).

## ADMINISTRATIVE FUNDING CAPS

Political parties and non-party MLAs in the ACT receive an indexed administrative expenditure allowance, currently \$23,126 per MLA per year.<sup>33</sup> We have now had one full term of a 25 Member Assembly (2016 to 2020), and in this 9th Assembly term, ACT Labor received \$277,514 per annum, the Canberra Liberals \$254,388 per annum and the Greens \$46,252 per annum for administrative funding.

Given that the funds were initially created to cover parties' costs of administration and bookkeeping to meet the 2012 electoral donations laws whereby only individuals on the electoral roll could donate and a separate bank account was required for these funds, and the fact that these requirements have since been rescinded, means that it is now unclear why the ACT taxpayers should continue to cover administrative costs for political parties at this rate.

It is certainly clear that once a funding stream has been created for political parties, it is difficult to revoke it, despite the grounds no longer being there.

We propose the JACS Committee investigate whether administrative funding should remain fixed per MLA, or whether total funding should be capped per party, noting that many administrative functions and costs within the parties are reduced per head with efficient, central administrative systems. For example, only one bookkeeper is required to manage party accounts, no matter what the number of elected MLAs.

The Greens believe that parties should be able to manage their administrative costs efficiently and effectively with capped funding, and the public payment for this should be capped at the equivalent of five times the maximum amount payable per MLA. Based on current figures, this would equate to \$115,631 per annum for parties with five or more MLAs.

**Recommendation 21:** That the committee investigate an appropriate annual cap for administrative funding per party, rather than an amount being set per MLA.

## SIZE OF THE ASSEMBLY

The ACT Greens strongly support increasing the size of the ACT Legislative Assembly.

Despite the increase to 25 members in 2016, the ACT still has proportionally fewer elected representatives per capita than any other Australian jurisdiction. This results in lower

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<sup>33</sup> More information can be found on the Elections ACT website:  
[https://www.elections.act.gov.au/funding\\_and\\_disclosure/administrative\\_funding](https://www.elections.act.gov.au/funding_and_disclosure/administrative_funding)

representation of the ACT community and risks less accountability and transparency for our community.

The current 25-member Assembly fulfils the duties of both state and local government, whereby most other jurisdictions would have local council representation as well as an upper and a lower house in their state legislature. This is combined with the ACT only having two senators as a Territory, rather than the 12 senators that states have.

ACT residents only have 30 representatives in total for both levels of representative government (25 ACT MLAs and five federal MPs) for a population of 431,215<sup>34</sup> (one for each 14,373 residents), compared to Tasmania which has 327 representatives across three tiers of government (265 local councillors<sup>35</sup>, 20 MLCs, 25 MLAs, five federal MPs and 12 senators) for a population of 541,071<sup>36</sup> (one for each 1,654 residents). Whilst we acknowledge the vast difference in land size, this does not outweigh the fact that Tasmanians have eight times the representation compared to ACT residents.

## **FUTURE INCREASES IN ASSEMBLY SIZE**

The ACT Greens recommend that the Committee investigate the option of building a trigger into the legislation to allow for an automatic review of the Assembly size when the population reaches a certain size. The 2013 Expert Reference Group formed to consider the size of the ACT Assembly, chaired by the ACT Electoral Commissioner<sup>37</sup>, considered that “it would be appropriate to enlarge the Assembly to 35 in either 2020 when the population is expected to reach 410,000 or in 2024 when the population is projected to reach 428,000.”<sup>38</sup>

The Expert Reference Group recommended that “the ACT Legislative Assembly be increased to 25 members at the 2016 election, consisting of five electorates each returning five members; and the Assembly be increased to 35 members at the 2020 election, consisting of five electorates each returning seven members”.<sup>39</sup>

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<sup>34</sup> ACT Treasury estimate at 12 March 2021.

<sup>35</sup> <https://www.legislation.tas.gov.au/view/html/inforce/current/act-1993-095#JS3@EN>

<sup>36</sup> Australian Bureau of Statistics, 18 March 2021.

<sup>37</sup>

[https://www.elections.act.gov.au/electoral\\_boundaries/review\\_into\\_the\\_size\\_of\\_the\\_legislative\\_assembly](https://www.elections.act.gov.au/electoral_boundaries/review_into_the_size_of_the_legislative_assembly)

[https://www.elections.act.gov.au/news/2013/public\\_submissions\\_invited\\_on\\_the\\_size\\_of\\_the\\_act\\_legislative\\_assembly](https://www.elections.act.gov.au/news/2013/public_submissions_invited_on_the_size_of_the_act_legislative_assembly)

<sup>38</sup> p2. ERG Report:

[https://www.elections.act.gov.au/\\_data/assets/pdf\\_file/0006/837447/Size\\_of\\_the\\_Assembly\\_Final\\_report.pdf](https://www.elections.act.gov.au/_data/assets/pdf_file/0006/837447/Size_of_the_Assembly_Final_report.pdf)

<sup>39</sup> p3. ERG Report:

[https://www.elections.act.gov.au/\\_data/assets/pdf\\_file/0006/837447/Size\\_of\\_the\\_Assembly\\_Final\\_report.pdf](https://www.elections.act.gov.au/_data/assets/pdf_file/0006/837447/Size_of_the_Assembly_Final_report.pdf)

A legislated trigger for consideration of expansion of the Assembly would allow for a timely response to population increases to ensure the ACT community is adequately and proportionately represented in the Assembly and would ensure that the process to review the size of the Assembly is depoliticised.

Alternatively, the Assembly could simply embed in legislation the recommendations of the Expert Reference Group to increase the size of the Assembly at a specific time.

The ERG recommended moving to 25 members in 2016 and 35 members in 2020 and proposed that if the Assembly did not accept 35 members in 2020, that it would proceed with 35 (7 members x 5 electorates) members in 2024. This is consistent with the view of the ERG that even with 35 members the voters of the ACT would be modestly represented.

As this recommendation was based on population projections, and that population projections can shift - especially in COVID affected times, it may be more expedient to link the increase to population itself.

## SIZE OF ELECTORATES

The ACT Greens believe that having five member electorates reduces the proportionality and diversity of representation in the Assembly. We maintain that the best configuration for future increases to the size of the Assembly would be having larger electorates with 7 to 9 members which has better proportional representation outcomes for the community.

We note that the Electoral Commission in its recent report recommends that party candidate nominations be limited to 5 per electorate.<sup>40</sup> We would instead recommend that the legislation states that parties may only nominate the number of candidates as there are seats in each electorate - this would give the legislation more longevity.

### **Recommendations 22:**

22a - That a population trigger be established to increase electoral representation in the ACT for the 2024 election.

22b - That the number of electorates remain at 5, but the number of members in each electorate be increased.

22c - That parties may only nominate as many candidates as there are seats in each electorate.

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<sup>40</sup> Recommendation 4: [https://www.elections.act.gov.au/\\_data/assets/pdf\\_file/0007/1746097/2020-Election-report.pdf](https://www.elections.act.gov.au/_data/assets/pdf_file/0007/1746097/2020-Election-report.pdf)

I would be pleased to make representations to the committee on these issues on behalf of the ACT Greens.

Sincerely,

Jo Root

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30 April 2021