



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

SELECT COMMITTEE ON THE 2016 ACT ELECTION AND ELECTORAL ACT

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

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

Submission 7

Name – Gordon Ramsay MLA, Attorney-General

	A.C.T. LEGISLATIVE ASSEMBLY COMMITTEE OFFICE
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Gordon Ramsay MLA

Member for Ginninderra

Attorney-General

Minister for Regulatory Services

Minister for the Arts and Community Events

Minister for Veterans and Seniors



Ms Bec Cody MLA

Chair

Select Committee on the 2016 ACT Election and Electoral Act

GPO Box 1020

CANBERRA ACT 2601

Dear Ms ^{Bec}Cody

I am writing to you to ask the Select Committee on 2016 ACT Election and Electoral Act to consider a number of recommendations from the ACT Auditor-General's *Report Number 2 of 2017: 2016 Election* and the *Report of the Electoral Commission on the ACT Legislative Assembly Election 2016*. The Government recognises that the Select Committee's work will include the issues raised by the Auditor-General and the Electoral Commissioner in these reports. The Government responses to both committed to refer their recommendations to the Select Committee for consideration.

I have attached the relevant recommendations from the Auditor-General's report at Attachment A. The relevant recommendations from the Electoral Commission report are at Attachment B. I note that there are two recommendations in both reports that are substantively the same. These recommendations propose that voters be allowed to pre poll vote without making a declaration they are unable to attend a polling place on polling day (recommendations 3 and 2 respectively) and that the fine for not voting should be expressed in penalty units (recommendations 7 and 10 respectively).

Full copies of each report are available on the Auditor-General's and Electoral Commission's websites.

Thank you for considering these recommendations and for the important work you and the other members of the Select Committee are undertaking.

Yours sincerely

Gordon Ramsay MLA

Attorney-General

7 JUN 2017

AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY

London Circuit, Canberra ACT 2601, Australia GPO Box 1020, Canberra ACT 2601, Australia
Phone +61 2 6205 2615 Email ramsay@act.gov.au



@Gordon_R_Ramsay



Gordon Ramsay MLA

ACT Auditor-General's report Number 2 of 2017 2016 Election – recommendations referred from Government

The full report is available online at: <http://www.audit.act.gov.au/auditreports/reports2017/>

Recommendation 3

The ACT Government should amend the *Electoral Act 1992* so that an elector may vote at a pre-poll voting centre without the requirement to declare that they are unable to attend a polling place on polling day.

Recommendation 7

The ACT Government should use penalty units as the basis for a non-voter fine to allow incremental adjustments and determine what penalty is to be established for non-voters (and in so doing increase the current \$20 fine).

Report of the Electoral Commission on the ACT Legislative Assembly Election 2016 – recommendations referred from Government

The full report is available online at:

http://www.elections.act.gov.au/data/assets/pdf_file/0016/1044016/Report-on-the-ACT-Legislative-Assembly-Election-2016.pdf.

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.

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.

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.

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 six 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.

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.

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.

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'.

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.

2017

**THE LEGISLATIVE ASSEMBLY FOR
THE AUSTRALIAN CAPITAL TERRITORY**

GOVERNMENT RESPONSE TO THE REPORT ON ACT LEGISLATIVE ASSEMBLY ELECTION 2016

Presented by
Gordon Ramsay MLA
Attorney-General

Introduction

The report on the conduct of the 2016 Legislative Assembly election is presented under section 10A of the *Electoral Act 1992*.

The report outlines the achievements of the Electoral Commission and Elections ACT and recommends areas for reform to continue to improve the function of the electoral system in the ACT.

Notable achievements in the report are:

- the implementation of the increase in the size of the Assembly from 17 MLAs to 25 MLAs, elected from five electorates each returning five MLAs;
- the most complete electoral roll for an ACT election, with 99.8 per cent of the estimated eligible population enrolled, including very high levels of enrolments of 18-24 year-olds;
- recording the lowest ever rate of informal voting at an ACT election, with only 2.5 per cent of votes counted as informal;
- the conduct of a performance audit of the conduct of the 2016 ACT Legislative Assembly election by the Auditor-General's Office, finding that the election was conducted effectively;
- continued provision of secret voting facilities for blind and sight-impaired people using electronic voting;
- high voter satisfaction with electoral services, with 96 per cent of surveyed voters expressing satisfaction with their overall voting experience;
- finalising the election result in record time, with the count concluding seven days after polling day as a result of combining the scanning of paper ballots with electronic voting and the eVACS® counting system;
- 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 payments 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).

The Government commends the Electoral Commission and Elections ACT on these achievements.

The report makes ten recommendations to improve elements of the ACT electoral system. The Government has prepared a response to address the recommendations. The response refers eight of the recommendations to the Select Committee Inquiry into 2016 ACT Election and the Electoral Act. This will allow the views of the Electoral Commission to be considered with those of the rest of the community. The ACT enjoys a vibrant democracy and the right to participate in elections is a fundamental right. Therefore, any potential changes to the

way this right is regulated must be given substantive consideration. The Government believes that it is critical the Canberra community has confidence to freely participate in a robust and transparent electoral system.

Recommendations 1 and 5 have not been referred to the Select Committee. Recommendation 1 is addressed to the Assembly and the Government is investigating options already for recommendation 5.

Recommendations 2 and 10 are consistent with recommendations 3 and 7 of the Auditor-General's report number 2 of 2017 – 2016 ACT election. The recommendations are about pre-poll voting and the fine for not voting. Recommendations 3 and 7 of the Auditor-General's report have also been referred to the Select Committee Inquiry into 2016 ACT Election and the Electoral Act.

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.

Government response

Noted. The recommendation is addressed to the Assembly.

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.

Government response

Noted.

The Government notes that there is a Select Committee Inquiry into 2016 ACT Election and the Electoral Act and will refer this recommendation to the Select Committee for consideration.

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.

Government response

Noted.

The Government notes that there is a Select Committee Inquiry into 2016 ACT Election and the Electoral Act and will refer this recommendation to the Select Committee for consideration.

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.

Government response

Noted.

The Government notes that there is a Select Committee Inquiry into 2016 ACT Election and the Electoral Act and will refer this recommendation to the Select Committee for consideration.

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.

Government response

Noted.

The Government is aware that election signage is a source of irritation and frustration for the public.

The Government is investigating options for the most appropriate solution to this issue.

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 six 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.

Government response

Noted.

The Government notes that there is a Select Committee Inquiry into 2016 ACT Election and the Electoral Act and will refer this recommendation to the Select Committee for consideration.

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.

Government response

Noted. The recommendation is addressed to the Assembly.

The Government notes that there is a Select Committee Inquiry into 2016 ACT Election and the Electoral Act and will refer this recommendation to the Select Committee for consideration.

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.

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Government response

Noted.

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