

Background Briefing Paper:

Proposed Joint Standing Committee on Electoral Matters

Office of Meg Webb MLC | Issued 21 May 2024.

Proposal:

- That the Tasmanian Parliament establish a **Joint Standing Committee on Electoral Matters** as per the attached draft Terms of Reference.
- The attached proposed Terms of Reference for the Joint House Parliamentary Committee is based upon both the Terms of Reference for the Federal Joint House Standing Committee on Electoral Matters, and the former Tasmanian Parliamentary non-legislated Joint Standing Committees (2010): the Joint Standing Committees on Community Development, and Environment, Resources and Development.

Why a Joint Standing Committee on Electoral Matters?:

Interstate Joint House Standing Committees on Electoral Matters are established with the clear intent of investing in the ongoing strengthening of those jurisdictions' democratic free and fair electoral systems, in an embedded and systematic manner.

These national and subnational committees are re-established after each general election as a matter of course, to ensure elections are reviewed, and lessons to be learned identified, as a matter of routine.

These routine election reviews may or may not identify specific issues or problems with any particular poll, but they also canvass, consult and make constructive recommendations intended to improve their respective democratic institutions, in a public and transparent manner.

Reforms identified by other interstate Electoral Matters Committees include:

- ▶ Immediate and long-term areas for change such as improved financial donor transparency reforms
- ▶ Adequate funding and resourcing of state Electoral Commissions
- ▶ Accessible voting reforms
- ▶ Compliance and enforcement resourcing
- ▶ Civics and electoral participation (tackling informal voting rates)
- ▶ Social media impacts on elections.

Additional to the most recent Assembly and Legislative Council elections, the proposed Tasmanian Joint House Standing Committee has the scope to examine other electoral and election-related matters as they may arise - for example, either Chamber could refer a Bill which may seek to amend electoral laws, or which could have implications for electoral matters, to the Committee for examination.

A current outstanding matter awaiting review is the success, and/or areas for improvement, of the introduction of compulsory voting for local government elections.

The Legislative Council has annual periodic elections, which would be routinely reviewed by the proposed Joint Standing Committee.

It is worth noting, other examples of established Joint House Electoral Committees are recognised as having a legitimate and democratic role examining the conduct of elections and matters arising, and their inquiries are not seen as seeking to undermine the vote count or result of any particular election.

Background:

Tasmania

The Tasmanian Parliament made a previous attempt to establish a similar Joint House Committee to specifically examine the conduct of the unprecedented concurrent State and Legislative Council Elections held on 1 May 2021.

This previous attempt would have established a one-off Select Committee rather than the currently proposed Joint Standing Committee.

- On 29 June 2021 the Legislative Council voted 8 (Independents and ALP MLCs) to 3 (Liberal MLCs) in support of establishing the proposed Joint Select Committee on the Conduct of 2021 State and Legislative Council Elections.
- The motion was then transferred to the House of Assembly for consideration, and debated on 27 October 2021.
- Established parliamentary convention states should one Chamber vote to pass a motion seeking to establish a Joint House Committee Inquiry, the other Chamber also supports its establishment. Contrary to that convention the then-Gutwein Liberal government voted against the 2021 motion, which saw 12 No votes versus 12 Yes votes, resulting in the Speaker's casting vote in the negative defeating the motion.
- Subsequent to the 2021 debate, the Tasmanian Electoral Commission released its July 2021 [Report to the Legislative Council, Analysis of participation rates at the 2021 Legislative Council elections](#), which confirmed two types of voter disenfranchisement occurred within the Windermere and Derwent electorates.
- The matters raised within this TEC 2021 report as yet have **not** been scrutinised or debated by the Tasmanian Parliament. Currently there is no dedicated forum by which to do so.

Other jurisdictions with routine parliamentary reviews of elections:

- The Australian Federal Parliament, the NSW Parliament, and the Victorian Parliament all have Joint Standing Committees on Electoral Matters.
- Tasmanian Senators from both the Liberal and Labor parties were participating Members on the Commonwealth's Joint Standing Committee on Electoral Matters inquiry into the conduct of the 2019 federal election and related matters.
- These national and interstate routine Committee inquiries are recognised by those jurisdictions as important democratic health checks for the community and an investment in public trust in the systems of governance.

Jurisdiction	Committee	Membership	Most Recent Election Review Report
Commonwealth Parliament	Joint Standing Committee on Electoral Matters	Current 14 Members: <ul style="list-style-type: none"> Seven ALP Members Three Liberal Members Two Nationals Members One Independent Member One Aust. Green Member 	<p>Finalised Report: Report on the conduct of the 2022 federal election and other matters, tabled 27 November 2023.</p> <p>Chair at time: Kate Thwaites MP (ALP)</p> <p>Current Inquiry: Inquiry into civics education, engagement, and participation in Australia, referred by the Special Minister of State, Senator Don Farrell MP: 27 March 2024</p>
Parliament of NSW	Joint Standing Committee on Electoral Matters	Its current 11 Members: <ul style="list-style-type: none"> Two Liberal MPs; Six ALP MPs; One National MP; One Greens MP; and One Shooters, Fishers and Farmers MP 	<p>Current Inquiry: Administration of the 2023 NSW State Election and other matters</p> <p>Chair: Mr Peter Primrose MP (ALP)</p> <p>Previous inquiry: Adequacy of the funding allocation of the NSW Electoral Commission for the 2023 State General Election, tabled 18 August 2023.</p> <p>Chair: Mr Lee Evans MP (Liberal)</p>
Parliament of Victoria	Joint Standing Electoral Matters Committee	Its current 9 Members: <ul style="list-style-type: none"> Four Labor; Two Liberal; One Legalise Cannabis Party MP; One Greens MP; and One National MP 	<p>Current Inquiry: Inquiry into the Conduct of the 2022 Victorian State Election</p> <p>Chair: Ms Luba Grigorovitch MP (ALP)</p> <p>Previous inquiry: Inquiry into the impact of social media on elections and electoral administration, tabled 14 September 2021.</p> <p>Chair: Mr Lee Tarlamis MP (ALP)</p>

Terms of Reference:

The Joint Standing Committee on Electoral Matters Resolution of Appointment of 2022 can be found [here](#).

[Report on the conduct of the 2022 federal election and other matters](#),

Forward by Chair (ALP):

Australia's electoral system is widely respected, trusted and robustly independent, and it is in the best interests of our community and our elected representatives that it remains so. Across the western world, we are seeing a drift from democracy when people lose faith in their country's electoral system. That's why it is so important we take steps now to ensure the ongoing strength of our electoral system and our democracy.

Every parliamentary term, the Joint Standing Committee on Electoral Matters holds an inquiry into the preceding election and makes recommendations to ensure that Australia's electoral system remains relevant, appropriate and fit for purpose. Across this final report and the interim report issued in June, the Committee has recommended reforms to some key elements of our system. I encourage not only the Government but all of those with an interest in Australia's electoral system to take these recommendations seriously.

Through submissions and public hearings, the Committee has heard evidence about the need for Australia's electoral system to keep up with community expectations in areas including transparency of donations, the influence of big money on elections, the rise of misinformation and disinformation, participation and enfranchisement, and representation.

The recommendations in this report are made in addition to those made in the Committee's interim report, and are focussed on making improvements in these areas.

Transparency – with lower disclosure thresholds and real-time disclosure requirements, so that Australians know who is funding election campaigns.

Limiting the influence of big money – with the introduction of spending and donation caps, so that elections remain a contest of ideas, rather than who has the deepest pockets.

Responding to the rise of misinformation and disinformation through the introduction of truth in political advertising legislation.

Encouraging participation and enfranchisement – ensuring that all Australians can vote in ways appropriate to their needs, including Aboriginal and Torres Strait Islander peoples, people with disabilities, older Australians and Australians overseas.

Improving representation – by recommending increased Senate representation for the two territories and requesting a specific inquiry reference into increasing the size of the House of Representatives.

The Committee received more than 1500 submissions, held 11 public hearings and has made 36 recommendations. In addition to drawing on the evidence the Committee received, we have also drawn on the experience of electoral systems across Australia's states and territories, where some of these approaches have already been introduced and shown to improve the electoral system.

On behalf of the Committee, I extend my thanks to the many submitters and witnesses who took the time to engage with this inquiry and provide us with the evidence and ideas that have informed the Committee's findings and recommendations. I also thank my fellow committee members for their collegial participation in this inquiry and our secretariat for all of their work.

Ms Kate Thwaites MP

Chair

Terms of Reference:

The Joint Standing Committee on Electoral Matters can inquire into matters referred by either House of the Parliament, or a Minister, relating to the administration of and practices associated with the following electoral laws:

- Electoral Act 2017 (other than Part 3)
- Electoral Funding Act 2018
- provisions of the Constitution Act 1902 relating to the procedures for, and conduct of, elections for members of the Legislative Assembly and the Legislative Council (other than sections 27, 28 and 28A).

The administration of and practices associated with the above electoral laws relevant to the 2023 NSW state election have been referred to the Committee for inquiry. The Committee is to report on the inquiry within 18 months of the resolution being agreed to by both Houses.

[Administration of the 2019 NSW State Election Report,](#)

Forward by Chair (Liberal):

It has been my pleasure to chair the inquiry of the Joint Standing Committee on Electoral Matters into the Administration of the 2019 NSW State Election.

Administering the free and fair elections that the people of NSW rightly expect in a democracy such as ours is a major undertaking and I would like to commend the NSW Electoral Commissioner, Mr John Schmidt and his staff for their professionalism in delivering the election in March 2019.

In the course of the inquiry, the COVID-19 pandemic hit NSW, with significant implications for the conduct of elections into the future. While the Committee did not consider this to be an appropriate focus for an inquiry reviewing the administration of a past election, I would like to acknowledge at the outset of this report that COVID safe elections are a matter at the forefront of Committee members' minds, and will continue to be so.

The inquiry has been a valuable opportunity for the Committee to hear from a range of stakeholders about the conduct of the 2019 NSW State election and to reflect on what worked well, and where improvements could be made for future elections. The Committee's recommendations are wide-ranging covering election timeframes and the campaign period; the electoral roll and the ballot paper; early voting; election day; and compliance with and enforcement of the electoral legislation.

An issue of particular note for the Committee was the continuing and significant rise in the number of people who chose to vote at an early voting centre over the last three NSW State elections. Amidst some calls for a move to a voting period instead of an election day to recognise this trend, the Committee has found that there should continue to be an election day in NSW, an important part of our democratic processes.

Other important issues covered in the Committee's report include technology-assisted voting; the reliability of the electronic mark-off system; suggested changes to the Legislative Council ballot paper; issues around the election count; and increasing the accessibility of voting in NSW. The Committee has also made a number of recommendations in the area of compliance and enforcement, including around managing complaints about breaches of electoral legislation; and recommendations to reduce the administrative burden of complying with the legislation.

I would like to thank all stakeholders who took the time to provide written submissions, and to give evidence at the Committee's hearings for the inquiry. Your insight has been vital to the Committee in forming the findings and recommendations contained in this report. I would also like to take this opportunity to thank my fellow Committee members for their valuable contributions to the inquiry, and the Committee staff for their professionalism and support throughout the inquiry process.

I commend the report.

Lee Evans MP

Chair

Terms of Reference:

On 28 May 2019, the Legislative Assembly agreed to the following motion:

That this House refers an inquiry into the conduct of the 2018 Victorian State Election to the Electoral Matters Committee for consideration and report no later than 1 June 2020.

Forward by Chair (ALP):

The Electoral Matters Committee plays an important role in keeping our democracy strong. This includes conducting inquiries like this one after each state election. These inquiries provide an opportunity for any member of the community, any candidate or any other stakeholder to share their experiences and to suggest improvements to the system. The inquiries provide an opportunity for scrutiny of the Victorian Electoral Commission and for regularly reviewing the appropriateness of electoral law.

In this inquiry, the Committee considered a wide range of topics. The Committee examined the changing levels of voter participation in Victoria, including the worrying drop in voter turnout and the growing levels of informal voting. The Committee looked at the selection and management of voting centres and some of the difficulties experienced by candidates and voters. The Committee reviewed the electoral commission's reporting and identified areas where more transparency is required.

This report finds that there is much to be proud of in Victoria's democracy. But there is also room for improvement. The report includes 49 recommendations aimed at enhancing elections in Victoria. I call on the Parliament and the Victorian Electoral Commission to give these thorough consideration and take action to address them in time for the 2022 Victorian State election.

In conducting this inquiry, the Committee received information through written submissions, public hearings, community forums and private meetings. We would not have been able to conduct the inquiry without so many people giving up their time and sharing their experiences and expertise. On behalf of the Committee, I would like to thank all of the people who assisted us.

I would especially like to thank the Eastern Community Legal Centre and AMES Australia for arranging and facilitating community forums for us. As chair of the Committee, I am grateful for the support I received and the collaborative approach adopted by the other committee members— Bev McArthur (Deputy Chair), Lizzie Blandthorn, Matthew Guy, Katie Hall, Wendy Lovell, Andy Meddick, Cesar Melhem, Tim Quilty and Tim Read. I would like to also acknowledge the contribution of former committee members Bruce Atkinson and Ros Spence and recognise Ros' significant work as chair of the Committee for most of the time during which this inquiry was conducted. Finally, I would like to thank Committee's secretariat—Christopher Gribbin, Joel Hallinan, Maria Marasco and Bernadette Pendergast. Their hard work and support throughout the inquiry process has been greatly appreciated.

Lee Tarlamis OAM MP

Chair

Why are Parliamentary Reviews of State and Legislative Council Elections necessary?

Parliamentary Committees are the appropriate venue for such inquiries as they provide a publicly accountable and transparent forum by which all stakeholders can raise relevant matters.

Nationally, other jurisdictions have established as routine similar comprehensive public and accountable parliamentary election inquiries. As the NSW Parliamentary Committee Chair, Liberal MP Mr Lee Evans states in the 2019 NSW state election report:

“The inquiry has been a valuable opportunity for the Committee to hear from a range of stakeholders about the conduct of the 2019 NSW State election and to reflect on what worked well, and where improvements could be made for future elections. The Committee’s recommendations are wide-ranging covering election timeframes and the campaign period; the electoral roll and the ballot paper; early voting; election day; and compliance with and enforcement of the electoral legislation.”

Tasmanians deserve the same opportunity to have a say on their election experience.

Will the proposed Committee on Electoral Matters seek to dispute State and Legislative Council election results?

NO. No more than - the Morrison government voting to establish the Federal Parliamentary inquiry into the 2019 Federal election could be accused of seeking to undermine that election’s results, or the NSW State government participating in its review of the 2019 NSW state election, or the Victorian government establishing the parliamentary inquiry into the Victorian 2018 state election.

Will the proposed Committee on Electoral Matters undermine the Tasmanian Electoral Commission (TEC)?

NO. The Australian Electoral Commission (AEC) participates in, and is scrutinised by, the Federal Parliamentary Election Inquiry, as is appropriate for all public entities to face parliamentary scrutiny without being ‘undermined’.

Similarly, both the Victorian Electoral Commission (VEC) and the NSW Electoral Commissions participate in, and are scrutinised by their respective state parliamentary committee election reviews.

Are there other independent authorities better suited to conduct such reviews?

NO. At best, the **Tasmanian Integrity Commission (TIC)** would have only a very limited scope restricted to public officers only. The Commission’s CEO was quoted by the ABC as saying (11th June 2021):

“The impact of the (parliament’s) dissolution is that sitting members no longer hold their seats in parliament; they cease to be MPs and are no longer public officers.”

As such the TIC cannot hold a comprehensive enquiry or review into the broad range of potential electoral-related matters.

The **Tasmanian Electoral Commission** is responsible for the administration of elections, not the political decisions or conduct. Even so, it is not appropriate to place the TEC in a position where it is investigating itself.

Further, as per the other jurisdictions who hold routine post-election inquiries, these reviews provide an opportunity for scrutiny of the respective Electoral Commissions, and for those Commissions to also provide public feedback.

It is beyond the remit of the **Tasmanian Ombudsman’s Office** to undertake comprehensive reviews of the conduct of, or matters arising from, Tasmania’s Assembly, Legislative Council or local government elections.