

**INDEPENDENT REVIEW**  
OF  
**LOCAL GOVERNMENT**  
**ELECTIONS**

**South Australia 2007**

**FINAL**  
**REPORT**

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Chapter 1 EXECUTIVE SUMMARY

# 1 EXECUTIVE SUMMARY

In South Australia, local governments are elected in a system of voluntary postal voting. That voting is both *voluntary* and *postal* are two of the main features that distinguish local government elections from State and Commonwealth elections. A third distinguishing characteristic is that political parties are rarely explicitly involved.

The process is regulated by the extensive provisions of the *Local Government (Elections) Act 1999* and associated Regulations. After each local government elections since this legislation was enacted there has been a review of aspects of the election procedures, processes and/or outcomes. This is the third such review.

The Terms of Reference for this Review, which were jointly developed and agreed by the Local Government Association of South Australia (LGA) and the Minister for State/Local Government Relations, required it to examine both the legislation and administrative practices leading up to the 2006 local government elections, bearing in mind three goals of:

- improving Local Government *voter participation*;
- improving Local Government *representation*; and
- improving the Local Government *election process*.

Although not all those who participated in this Review agreed with these goals, they have been the major driver of the Review's considerations and the recommendations are aimed at achieving them.

Voter participation in local government elections has historically been much lower than participation in State or Commonwealth elections. This Review has found there are a number of reasons, apart from the obvious one that voting is voluntary. It is apparent that many electors are unwilling or unmotivated to vote because, especially in metropolitan areas:

- they are insufficiently aware of local government's role in their own communities; and/or
- they know little or nothing about the candidates that are standing for election; and/or
- they are apathetic about local democracy.

This Independent Review makes a series of recommendations (numbers 2 to 15, discussed in chapters 7 and 8) intended to improve voter participation. The overall thrust of these recommendations is to divert resources away from what the Review sees as unnecessary administrative tasks associated with compiling a separate voters roll, and towards activities that heighten awareness of the role of local government and elected members, its elections, and individual candidates for election.

Chapter 1 EXECUTIVE SUMMARY

A further series of recommendations (numbers 16 to 19, discussed in Chapter 9) is intended to improve local government representation by:

- attracting more candidates, particularly from under-represented groups,
- assisting all candidates with campaigning advice, and
- encouraging a greater number of candidates for popularly-elected mayoral positions.

The final series of recommendations (numbers 20 to 27, discussed in Chapter 10) would introduce a pre-election caretaker period and improve a number of administrative arrangements for elections.

Where possible, recommendations have been made to adopt standards in local government elections that are similar to State and Commonwealth election arrangements. The desirability of consistency with other elections (to the extent possible) has also led the Review to reject a number of proposals for change (discussed in Chapter 11) such as the introduction of optional preferential voting. Other proposals for change have been rejected because:

- they attracted little support from respondents; or
- there was insufficient evidence that a change would advance the Review's goals; or
- the proposal was not formally canvassed during the Review, being outside the Review's Terms of Reference; or
- the likely cost would be prohibitive, compared to the potential of only a minor improvement.

This *Final Report* refers many times to topics discussed in the Review's *Interim Report*, published in October 2007. This Review has produced three *Issues Papers*, an *Interim Report* and this *Final Report*. Readers will find that these papers provide detailed discussion of all the issues canvassed in the Terms of Reference, including those discussed in this *Final Report*. All these documents are available on the Review's web site: <http://www.localgovt.sa.gov.au/electionsreview>.

The Independent Reviewer has valued the input of a skilled Reference Group. The Reference Group<sup>1</sup> has assisted the Review with advice and comments but the Independent Reviewer bears sole responsibility for the content of this *Final Report*.

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<sup>1</sup> See Attachment B.

## Chapter 2 LIST OF RECOMMENDATIONS

**2 LIST OF RECOMMENDATIONS*****The Review recommends:***

- |          |   |
|----------|---|
| <b>1</b> | maintaining voluntary postal voting for the next local government election, and seeking to maximise voter participation through the comprehensive package of reforms contained in Recommendations 2 to 12.  |
| <b>2</b> | that the State Government and the Local Government Association (LGA) work together, with <ul style="list-style-type: none"> <li>• local communities</li> <li>• local government and</li> <li>• the Community Engagement Board for SA's Strategic Plan to promote increased participation in local government elections and the concepts underpinning SASP Target 5.5</li> </ul>   |
| <b>3</b> | that candidates be required to insert, into their profile, contact details to enable voters to find out more about their candidacy. This could be a phone number, email or website address; <sup>2</sup> and  |
| <b>4</b> | that the LGA and the Office for State/Local Government Relations (OS/LGR) <sup>3</sup> investigate the feasibility of ensuring that all candidates have an internet presence providing more information than the profile contained in the ballot pack. Each candidate would be required to: <ul style="list-style-type: none"> <li>• take personal responsibility for any opinions expressed; and</li> <li>• indemnify website hosts and publishers from any liability arising from the publication.<sup>4</sup></li> </ul> <p>The cost of establishing and maintaining suitable internet resources, over a nine-week postal election campaign could be funded by:</p> <ul style="list-style-type: none"> <li>• charging a fee to each candidate sufficient to cover the costs.<sup>5</sup> The fee could be collected as the cost of nominating for election; and/or</li> <li>• the State Government, through the OS/LGR, providing cash and/or assistance in kind (i.e. web servers, the temporary services of administrative officers for web publishing).</li> </ul> <p>Such a scheme would enable statewide promotion of a single web address that would lead voters to information about any candidate.</p> |

<sup>2</sup> A postal address should not be considered sufficient, as intending voters should not be expected to invest 50c merely in the hope of gaining a response from the candidate.

<sup>3</sup> It would not be appropriate to expect the State Electoral Office to operate, host, or facilitate such a resource because it would contain political arguments.

## Chapter 2 LIST OF RECOMMENDATIONS

***The Review recommends:*****5**

the LGA, with support from OS/LGR, encourage regional organisations of councils and the LGA Metropolitan Group to develop, in conjunction with local communities and the Community Engagement Board for SA's Strategic Plan, targets for voter participation within each region and strategies to achieve these targets.

**6**

that prior to the next local government elections, the State Electoral Office (SEO) in partnership with the LGA, call for tenders from suitably qualified advertising agencies to develop and implement an information and promotional campaign to:

- educate South Australians about the role and functions of local government and the role of elected members;
- inform electors how to find out more about their local candidates ;
- encourage voting, and
- explain *how* to vote; (with e.g. pictures of ballot envelopes etc)

Funding for this advertising campaign would be secured by amending section 12 of the *Local Government (Elections) Act 1999* so that responsibility for election promotion is shared between councils and the returning officer. This would enable the returning officer's costs of promotion to be recovered from councils under section 13.

**7**

the creative advertising agency hired to advise on a state-wide campaign also be tasked with devising targeted strategies to address the particular issues for large metropolitan councils where turnout has previously been lowest. This would inform the statewide campaign and also assist these particular councils to undertake additional advertising using the 'model' template, in order to reach metropolitan council and regional targets.

**8**

that the Returning Officer, in conjunction with the LGA and the OS/LGR, obtains appropriate professional advice to review the style, layout and content of the ballot pack and contents to ensure that they are:

- eye-catching, yet
- recognisably formal and
- contain instructions that are as simple as possible to follow, consistent with the need to require the voter to formally assert his/her identity.

<sup>4</sup> As an additional protection, the organisation hosting or publishing the comments might also be protected by a legislated immunity from liability.

<sup>5</sup> i.e. website hosting and bandwidth (data traffic) costs, plus the cost of hiring temporary staff to maintain the web pages during the election campaign period.

## Chapter 2 LIST OF RECOMMENDATIONS

<b><i>The Review recommends:</i></b>	
<b>9</b>	that any person, group or body corporate property <i>owner</i> or <i>occupier</i> with a legislative right to enrolment must be offered an opportunity to enrol to vote in any local government election. Voting papers should be sent only to those who have enrolled themselves.
<b>10</b>	that the property franchise entitlement for the Adelaide City Council be adopted for the rest of local government, so that an individual natural person is not entitled to vote in more than one capacity for any election.
<b>11</b>	legislating so that groups and bodies corporate that choose to enrol must be (at the time of enrolling): <ul style="list-style-type: none"> <li>• required to nominate the name of the natural person who is authorised to exercise a vote for the group or body corporate; and</li> <li>• advised by the council CEO that this natural person cannot vote in any other capacity (including as a resident) for the same local government election.</li> </ul>
<b>12</b>	that, as planned by the SEO, the postal voting guide produced for the next local government elections must contain at least one sentence in each of the 12 most commonly-used languages other than English, about how to obtain a copy of the postal voting guide in each of those other respective languages.
<b>13</b>	legislating to remove two of the differences in residential qualifications between the House of Assembly roll and the local government CEO's roll. That is to say, <ul style="list-style-type: none"> <li>• those who have resided in the district for less than one month; (but who may still be on the roll in respect of their previous address); and</li> <li>• those of "unsound mind";</li> </ul> (who therefore are <i>not</i> entitled to vote in State Parliamentary elections) be also prohibited from voting in their current residential district for local government elections.
<b>14</b>	altering the date of future local government elections so that they fall 18 to 19 months after the date of State elections. This would require extending the current term of office of all elected councils by 10 to 11 months, to conclude with an election sometime in September or October 2011, and every 4 years thereafter.

## Chapter 2 LIST OF RECOMMENDATIONS

<b><i>The Review recommends:</i></b>	
<b>15</b>	amending the <i>Local Government (Elections) Act 1999</i> so that a person who turns 18 in the 3-month interval between the close of rolls and the close of voting may vote in a local government election, provided that the person was already provisionally enrolled on the House of Assembly electoral roll.
<b>16</b>	that the LGA consider the possibility of establishing (prior to the next election campaign): <ul style="list-style-type: none"> <li>• a register of experienced election campaigners (e.g. currently serving, or retired elected members from any sphere of government) who are willing to act as a volunteer campaign mentors to future, inexperienced candidates; and</li> <li>• a mechanism for matching a would-be candidate with a suitable volunteer mentor.</li> </ul>
<b>17</b>	the LGA (or alternatively the OS/LGR) develop a website that provides simple practical information to assist prospective candidates to develop and implement an effective, inexpensive election campaign.
<b>18</b>	the LGA, the OS/LGR and State agencies with specialist knowledge of currently under-represented groups develop and implement a series of specifically targeted campaigns, using the framework outlined on page 76, to inform and support members of under-represented groups to consider nominating for the next local government elections.
<b>19</b>	the <i>Local Government (Elections) Act 1999</i> be amended so that in council areas with a popularly-elected Mayor, any candidate may nominate for both Mayor and councillor, with the Mayoral position to be decided first. Once the Mayoral ballot has been decided, preferences can be distributed for positions of councillor.

## Chapter 2 LIST OF RECOMMENDATIONS

**The Review recommends:****20**

legislating so that each council is required to have a policy for caretaker rules. The legislation should require each council's policy to at least prohibit, during a defined election period:

- a council making decisions about the employment of a permanent Chief Executive Officer;
- a council entering into a contract or entrepreneurial venture that exceeds a value of \$100 000 or 1% of the council's revenue from rates in the preceding financial year (whichever is greater) unless an exemption is granted by the Minister;
- the use of council resources for the advantage of any candidate; and
- a council publishing electoral matter (unless it contains only information about the election process)

while leaving each council free to adopt more far-reaching caretaker rules, if it wishes.

**21**

the election period, for purposes of the council's caretaker policy, be defined as the period commencing when nominations close, (or earlier, at the discretion of the council), and ending at the conclusion of the election.

**22**

that the ballot draw (to determine the order of candidates on the ballot paper) be moved from "as soon as is reasonably practicable after the close of nominations" to 4.00pm, four hours after the close of nominations.

**23**

legislating so that voters roll data may be provided to local government election candidates – only after the close of nominations – in electronic format. Consistent with the *Commonwealth Electoral Act 1918*, significant penalties should apply for use of the data for any purpose (or at any time) other than campaigning in the local government election for which the candidate has nominated.

**24**

the *Local Government (Elections) Act 1999* be amended to insert provisions equivalent to s113 (4) of the *Electoral Act 1985* to better encourage the withdrawal or retraction of election advertising material that the Returning Officer declares to be inaccurate or misleading.

## Chapter 2 LIST OF RECOMMENDATIONS

***The Review recommends:*****25**

that if recommendation 14 is to be adopted, further consultation occur with local government and the public to determine how best to strike a balance between:

- maintaining local government representation by filling casual vacancies, especially before the delayed 2011 periodic (general) election, but also in years thereafter; and
- minimising the cost to communities of an expected increase in the number of supplementary elections that might be required.

**26**

that there be no change to the existing provisions for the withdrawal of any candidate after nominations have closed, pending further discussions with local government and the SEO.

**27**

amending Section 12 of the *Local Government Act 1999* to provide that representation reviews may be scheduled by regulation. In the process of consulting on the regulations, the Minister and the LGA should consider mechanisms that might be adopted to ensure compliance with the schedule.

Chapter 3 BACKGROUND

### **3 BACKGROUND**

This Independent Review of Local Government Elections was jointly commissioned by the Minister for State/Local Government Relations, the Hon. Jennifer Rankine M.P., and the then-President of the Local Government Association, Cr John Rich.

The Terms of Reference canvassed an extensive range of issues that were categorised under three broad headings:

1. Improving Local Government voter *participation*;
2. Improving Local Government *representation*; and
3. Improving the Local Government *election process*.

The Terms of Reference are recorded in full in Attachment A.

This Review was undertaken in the context of **South Australia's Strategic Plan**. The Plan contains a number of topics and targets that have guided this Review. The most direct reference is the target to increase voter participation in Local Government elections in South Australia to 50% by 2014 (T5.5) as a measure of strong, connected communities with citizens engaged in local decision-making. Other relevant targets are to increase women's participation in leadership roles, as well as targets to increase the number of Aboriginal South Australians participating in community leadership (T5.7) supporting multiculturalism (T5.8) and to increase the proportion of eligible young South Australians enrolled to vote (T5.4)

The Plan also includes reference to the 'promotion of culturally and linguistically diverse South Australians elected to Parliament, local government, and on corporate boards' as an important facet of the value South Australia places on diversity. The Strategic Plan 2004 called for alignment of State and Local Government Strategic Plans within 12 months, while the updated Plan of 2007 calls for coordinated regional approaches to achieve targets.

Margaret Wagstaff was appointed as the Independent Reviewer to undertake this Review and was provided with the assistance of an Executive Officer, Shane Sody from the Office for State/Local Government Relations (OS/LGR).

Ms Wagstaff was supported by a Reference Group chaired by the Hon Ian Hunter, MLC. The membership of the Reference Group is included as Attachment B.

This Independent Review of Local Government Elections had three milestones:

- Release of three *Issues Papers* (June 2007);
- Release of an *Interim Report* (October 2007); and
- Delivery of this *Final Report*

This *Final Report* has been informed by the *Issues Papers* and the *Interim Report*, as well as an extensive literature review and a comprehensive consultation process.

CHAPTER 4 – METHODOLOGY

## 4 METHODOLOGY

Initially the Review produced three *Issues Papers* to inform discussion. The release of the *Issues Papers* entitled *Improving Voter Participation*, *Improving Representation* and *Improving Election Process*, in June 2007, provided the basis for a comprehensive consultation on the issues of the Review.

The consultation occurred through a widely advertised call for submissions (including some advertisements in Vietnamese), a web site, group presentations, quick feedback sheets, an online survey tailored to young people, letters to a wide variety of organisations, advertisements and feedback sheets in every public library and meetings with regional local government associations, individual local governments and community groups. Through this process, input was obtained from 313 individuals and 26 organisations through feedback sheets or through detailed submissions and from 19 organisations through discussion at meetings.

The approach aimed to obtain not only local government views, but also a broad range of community views.

This consultation was followed by the release, in mid-October 2007, of the Review's *Interim Report*. A detailed explanation of the methodology of this Review is contained in the *Interim Report*.<sup>6</sup>

Starting from mid-October 2007, copies of the *Interim Report* were sent to all councils, as well as all persons who had provided either a postal or email address when responding to the earlier consultation.

Media coverage of the release of the *Interim Report*<sup>7</sup> led to several more requests for copies of the *Interim Report* and these were supplied.

Printed copies of the Executive Summary to the *Interim Report* were distributed at a workshop held in conjunction with the LGA's Annual General Meeting at the Adelaide Convention Centre on 18 October 2007.

The LGA provided a link to the *Interim Report* from its own web site, and sent a circular ([Circular 43.11](#)) to all councils asking for comment, to enable the LGA to draft its own response to the *Interim Report*.

The Review's own web site published not only the *Interim Report* but also all responses received to the report.

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<sup>6</sup> at pages 9 to 14.

<sup>7</sup> e.g. *The Advertiser* 18 October 2007 p29, all *Messenger* newspapers 24 October 2007, and some regional newspapers.

CHAPTER 5 – THE CURRENT SITUATION

## 5 THE CURRENT SITUATION

### 5.1 Improving Voter turnout

The Review's first term of reference is to report on:

the effectiveness of strategies for improving participation at the 2006 Local Government elections, and further measures that could be taken to increase voter participation in Local Government elections.

Before the introduction of postal voting in local government elections in 1997, the rate of voter participation in contested elections rarely exceeded 20%. Since 2000 (when postal voting was used state-wide for the first time) participation rates have been consistently above 30%. However, after the peak year of 2000 (when 40% of voters participated) the trend has been downward, with participation rates of 33% in 2003, and 31% in 2006. It is not yet clear whether this downward trend will continue, or whether participation might stabilise in the range of 30 to 33 percent.

As noted earlier, South Australia's Strategic Plan includes, as target 5.5:

increase voter participation in Local Government elections in South Australia to 50% by 2014.

This target represents one of the starting points for this Review.

Legislation gives responsibility for promoting voter participation primarily to councils<sup>8</sup> and all councils make some financial commitment to this task. However, this does not mean that councils have universally embraced the SASP Target 5.5. On the contrary, as noted in the Review's *Interim Report*, many from the local government sector who made submissions or commented on the Review's *Issues Papers* did not agree that action should be taken to improve local government's popular mandate. Similar views have been expressed by a minority of local governments that have commented on the *Interim Report*.

A clearly recognisable correlation over many years is that voting participation tends to be lower in the larger and metropolitan councils, but higher in smaller and rural councils. In the 2006 elections, voter turnout of more than 50% was the norm for councils with fewer than 10,000 enrolled voters, while at the other end of the population spectrum, no council with more than 40,000 enrollees had voter turnout above 30%.

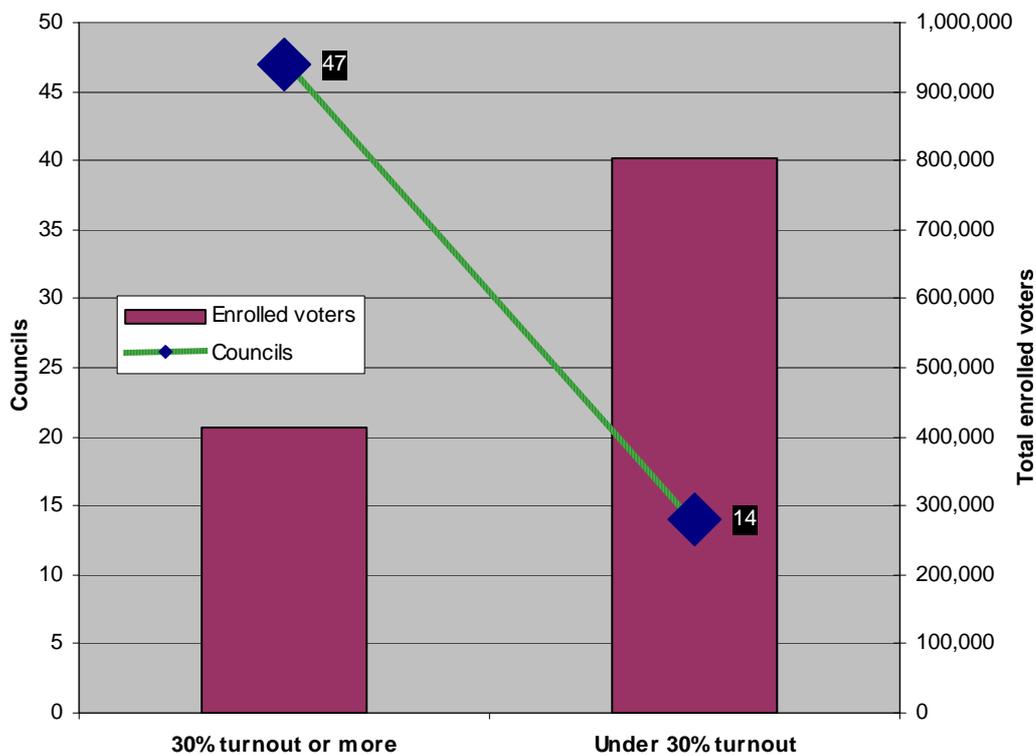
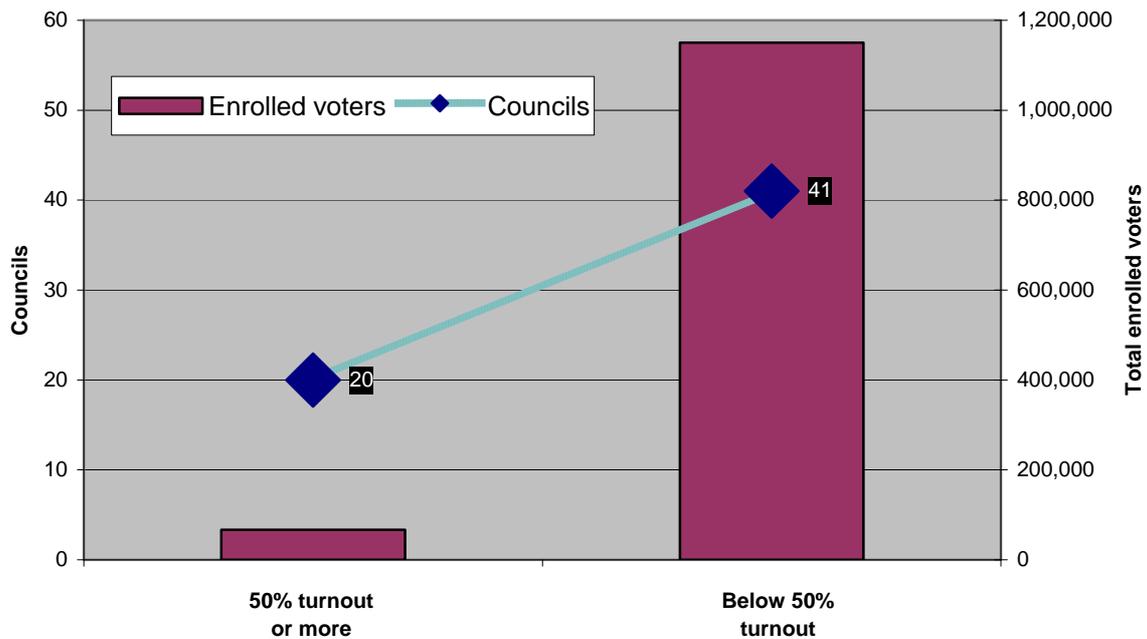
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<sup>8</sup> Section 12 of the *Local Government (Elections) Act 1999* makes it clear that the Returning Officer is responsible for the actual conduct of the election, but each council is responsible for "the provision of information, education and publicity designed to promote public participation in the electoral processes for its area, to inform potential voters about the candidates who are standing for election in its area, and to advise its local community about the outcome of elections and polls conducted in its area."

CHAPTER 5 – THE CURRENT SITUATION

The following graphs, previously published in the *Interim Report*, have been updated to include data from the 2007 election for the Adelaide City Council and clearly illustrate voter participation patterns in councils of varying sizes.

**Below & above SASP Voter Target 2006**  
(includes turnout from Adelaide City Council 2007)



CHAPTER 5 – THE CURRENT SITUATION

The 2004 local government elections review recommended that the voluntary postal voting system be retained, with increased measures to inform and educate potential voters. Although a number of strategies were adopted to increase voter participation, the fall in the percentage of voter participation in the 2006 elections illustrates that these strategies<sup>9</sup> were insufficient. Despite a small but significant increase in the numbers of candidates, the overall percentage of voters participating in 2006 was lower than in 2003.

If there is to be progress towards achieving the SASP Target, effective measures must be targeted towards the largest councils, i.e. those with turnout below 30% at their last election, who together represent about 800,000 enrolled voters (two-thirds of SA's total). These councils are all in the Adelaide metropolitan area. In addition it will be important to support smaller and rural councils to maintain, and if possible increase, their existing, higher voter participation rates.

There are two key aspects in which South Australian local government elections differ from local government elections in other States:

- South Australia is the only State in which a State Electoral Office/Commission does not take responsibility for a central publicity and promotions campaign for local government elections; and
- South Australia is the only State in which property franchisees (i.e. non-resident owners and business lessees) are automatically enrolled without taking any action to seek enrolment.

The chart on the next page highlights the interstate comparisons.

### **5.1.1 Central publicity campaign to encourage voting**

Funding for the promotion of South Australian local government elections has always been relatively modest. Public notices, required by statutes, are inserted in newspapers, but (unlike other Australian States) South Australia has had little or no creative advertising budget for the purpose of educating voters and encouraging voter turnout.

The SEO's total advertising spend for the November 2006 elections was \$94,000, while election cost schedules, reported to the SEO by councils, included another \$80,000 for advertising. Most of this amount (if not all) was spent on advertising of the "public notice" variety. However, there was a separate publicity campaign, with a total budget of more than \$160,000, including \$40,000 provided by State Government.<sup>10</sup> The campaign budget was split with:

- \$46,500 being focused on encouraging nominations
- \$46,500 being expended on encouraging voting,
- \$16,600 being spent on promotional materials, and a further
- \$30,000 on a schools competition
- the remainder (about \$20,400) going towards limited advertising tailored to youth and ethnic press, and radio.

<sup>9</sup> A list of the strategies employed to increase voter participation can be found in *Issues Paper No. 1* at paragraph 1.3

<sup>10</sup> The other \$120,000 came from the Local Government Research and Development fund (\$80,000) and the LGA (\$40,000).

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About \$25,000 of council funding supplemented the campaign or was expended via the LGA to purchase materials used locally.<sup>11</sup>

	<b>NSW</b>	<b>QLD</b>	<b>VIC</b>	<b>TAS</b>	<b>WA</b>	<b>SA</b>
<b>Method of voting</b>	Attendance	Attendance	In 2004/05: postal (70) attendance (9) at discretion of council	Postal	In 2007 postal (64) attendance (76) at discretion of council	Postal
<b>Property franchisees may vote?</b>	Yes, after application for enrolment	No	Yes, after application for enrolment	Yes, after application for enrolment	Yes, after application for enrolment	<b>Yes – no enrolment application required</b>
<b>Compulsory?</b>	Yes for residents  Optional for property franchisees	Yes for residents	Yes, for residents aged 18-70  Optional for over 70's and property franchisees	No	No	No
<b>Average participation rate at most recent polls</b>	85% + (2004)	85% + (2004)	75.7% (postal) 72.8% (attendance) (2005)	57.4% (2007)	34.3% (postal) 25.1% (attendance) (2007)	31.7% (2006)
<b>Publicity</b>	State-wide by the NSW State Electoral Office	State-wide by Electoral Commission Qld <sup>12</sup>	State-wide by Victorian Electoral Commission	State-wide by Tasmanian Electoral Commission	State-wide by WAEC & DLGRD plus statutory minimum by councils	<b>Councils / LGA only</b>
<b>Dual Candidacy</b>	Yes <sup>13</sup>	No	Not applicable. Mayor must be elected from among councillors.	Not applicable. Mayor must be a councillor	Yes <sup>13</sup>	No
<b>Term of office</b>	4 years	4 years	4 years	4 years (half of Crs elected each 2 yrs)	2 years (Crs & internally elected mayors) 4 yrs (popularly elected Mayors)	4 years
<b>Timing</b>	18 months after fixed date of State election.	Fixed, but no relationship to State election.	Two years after fixed date of State election.	Odd-numb'd yrs. Fixed, but no relationship to State election.	Odd-numb'd yrs. Fixed, but no relationship to State election.	Eight months after fixed date of State election
<b>Next due</b>	Sept 2008	March 2008	Nov 2008	Oct 2009	Oct 2009	Nov 2010

<sup>11</sup> It is not clear whether this amount would have been included in the \$80,000 reported to the SEO by Councils noted above.

<sup>12</sup> *Electoral Act 1992* (Qld) s.8 (1)(d)

<sup>13</sup> This is relevant for only 29 out of 152 councils in NSW; and 23 out of 140 councils in WA– i.e. the ones with popularly-elected Mayors.

CHAPTER 5 – THE CURRENT SITUATION

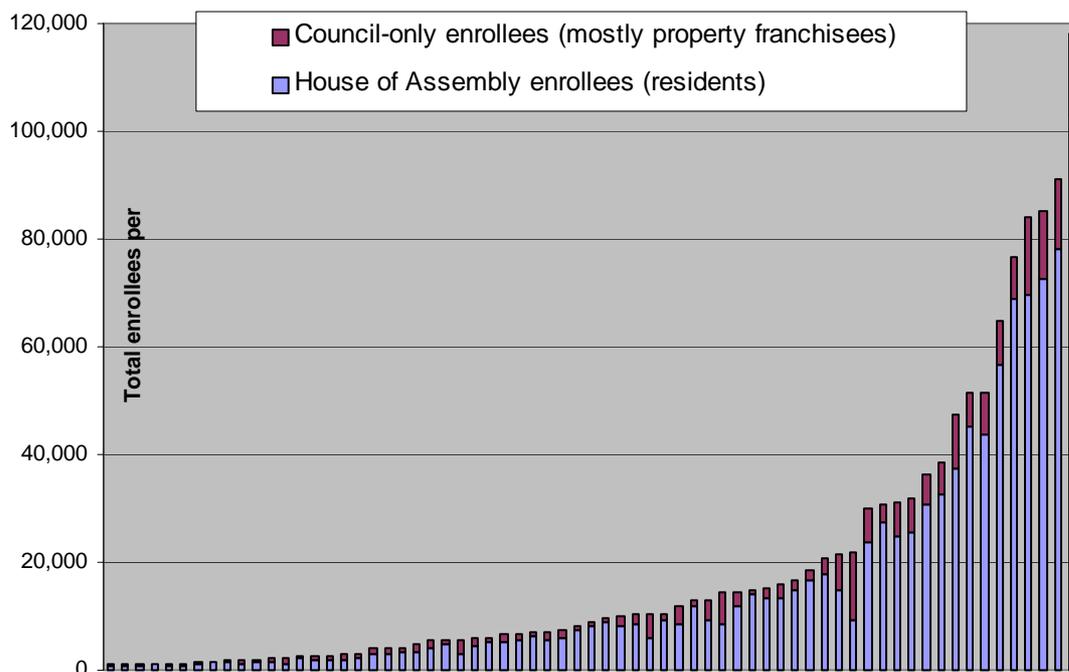
**5.1.2 Property franchise automatic enrolment**

For South Australia’s 2006-07 local government elections<sup>14</sup> the holders of property franchise voting rights represented 17.2% of all enrollees.

These enrollees were spread unevenly through the 67 elected councils. The highest numbers of property franchisees were enrolled in the councils with the largest overall populations (Onkaparinga, Port Adelaide Enfield, Salisbury, Charles Sturt etc.) but they made up only a small proportion of the overall number of persons enrolled in those council areas.

In only two councils did property franchisees make up a majority of enrollees (City of Adelaide, DC of Robe) and in only two others did they exceed 40% of enrollees (Yankalilla, Mid-Murray). The chart on this page has one bar for each council; with the largest council, Onkaparinga, on the far right of the graph, and the smallest council, Orroroo-Carrieton, on the far left.

**Numbers of ENROLLEES of each category (2006-07) in 41 councils**



<sup>14</sup> The data includes the Adelaide City Council election that was delayed until October 2007.

## CHAPTER 5 – THE CURRENT SITUATION

**Proportion of property franchisees  
enrolled to vote  
in SA local government elections 2006-07**



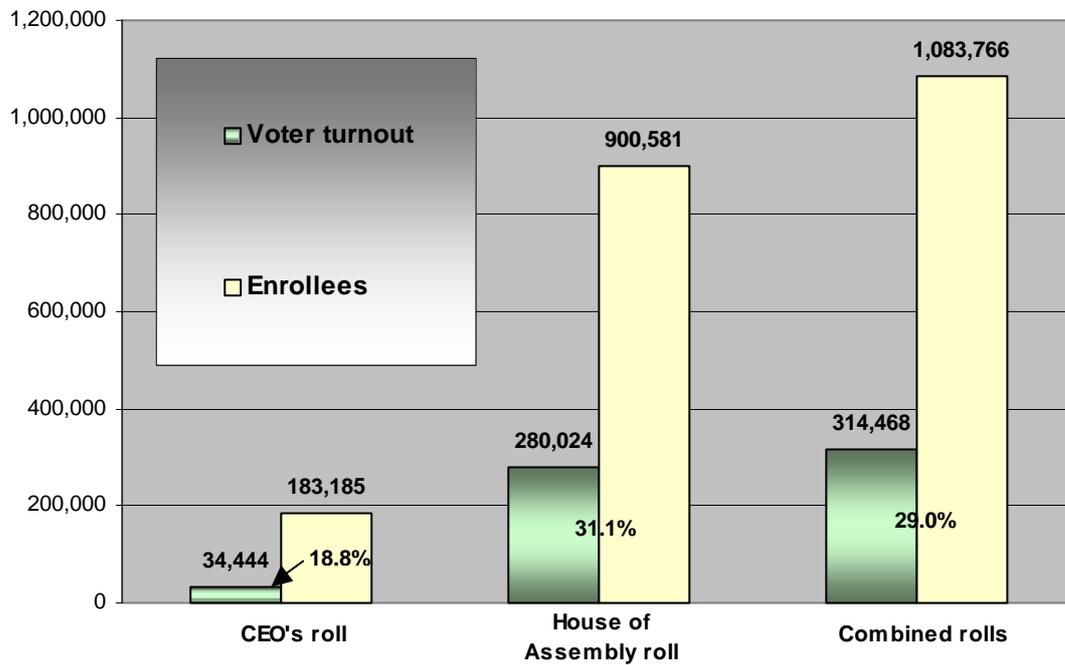
In 2006-07, property franchisees (and others on the CEO's roll) made up 17.2% of *enrollees*, but they were a much smaller percentage of *voters*. Comparative figures are available for only 41 of the 61 councils that held elections in 2006-07,<sup>15</sup> but they reveal that only 34,444 (18.8%) of CEO's enrollees in those 41 councils actually voted. Their relative non-participation acted to drag down the overall level of voter turnout. In these same 41 councils, the percentage of those on the House of Assembly roll (i.e. residents) who voted was 31.1%. The much lower participation rate of property franchisees lowered the combined average turnout from 31.1% to 29.0%.

The first chart on the following page indicates that these 41 councils took action to enrol a total of 183,185 people (mostly property franchisees) on their respective CEO's rolls. Unlike those who hold property in other states, these persons were not required to take any action to enrol. Local government officers ascertained their entitlement to vote, placed their names on a roll, and by liaison with the State Electoral Office (SEO), ensured that voting papers were sent to all 183,185 of these persons. The vast majority (81.2%) did not return their voting papers.

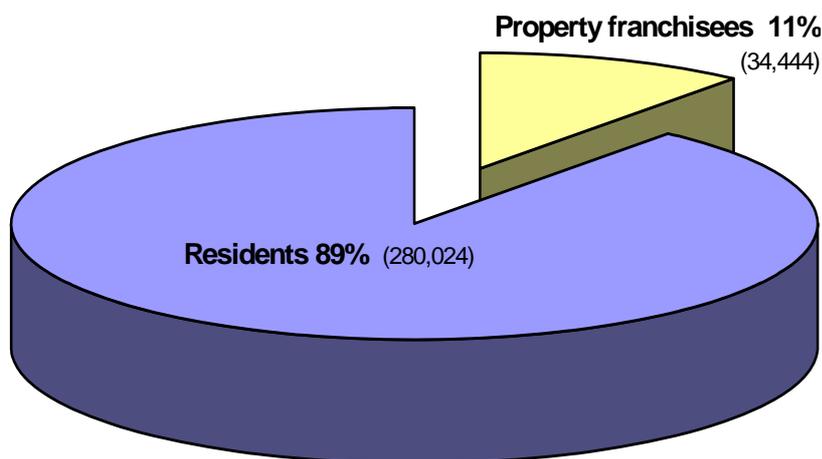
<sup>15</sup> The other 20 councils did not keep records to distinguish whether votes received had come from voters on the CEO's Roll or the House of Assembly Roll.

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**TURNOUT compared to enrollees - 2006 local government elections**  
 (includes 2007 Adelaide City Council elections - total sample 41 councils)



**Proportion of voters in 41 SA Local Government elections 2006-07**



CHAPTER 5 – THE CURRENT SITUATION

The CEO's roll needs to be maintained continuously, in case it is needed for an unplanned supplementary election. However, a 2002 study found that few councils did so. Nor did many councils separately account for the resources employed in maintaining the CEO's roll.<sup>16</sup>

A review undertaken to assist in preparing the *Interim Report* found that the costs of maintaining a separate CEO voter's roll was in the order of \$1 per *enrollee*, and, depending on voter turnout, could often be as high as \$4 per actual property franchise *voter*. In six country councils in 2006,<sup>17</sup> the entire cost of preparing the CEO's roll for the elections was wasted when a subsequent lack of nominees meant that in each of these six councils no election was required.

The *Interim Report* posed several options for change. However, all of the options were based on the conclusion that the status quo ought not continue. The Review's firm view is that the call on council resources to maintain the enrolment of property franchisees is unjustifiably large for the very limited return.

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<sup>16</sup> Local Government Association Voters Roll Working Party *Final Report* October 2002

<sup>17</sup> Lower Eyre Peninsula, Le Hunte, Kimba, Franklin Harbour, Flinders Ranges and Cleve.

CHAPTER 5 – THE CURRENT SITUATION

## 5.2 Improving Representation

The Terms of Reference for this Review require it to examine and report on:

“further measures for increasing the range and diversity of candidates for Local Government election, and encouraging effective civic participation in councils;”

As noted earlier<sup>18</sup> the South Australian Strategic Plan includes targets to increase the number of Aboriginal South Australians participating in community leadership (T5.7), support multiculturalism (T5.8), and to increase the proportion of eligible young South Australians enrolled to vote (T5.4). The Plan also includes reference to the 'promotion of culturally and linguistically diverse South Australians elected to Parliament, local government, and on corporate boards' as an important facet of the value South Australia places on diversity.

The 2006 local government elections brought an influx of younger members into councils. A survey by Professor Dean Jaensch of Flinders University in December 2006 found that 17.5% of newly elected or re-elected councillors were less than 45 years of age, compared to just 4.8% before the 2006 elections. The Adelaide City Council elections in 2007 continued the trend, with five of the Council's 12 members (41.5%) now under 45 years of age.

The number of female councillors is at an all-time high of 29%, but still far below women's representation in the population.

However, the 2006 elections brought little change in the cultural, linguistic or occupational diversity of councillors. Professor Jaensch's survey found only 3.5% of respondent councillors normally used any language other than English and only 3.6% listed their occupation as 'trade/manual'. The election nomination form used in 2006 did not require a candidate to declare race or ethnicity, and so there are no official figures about the numbers of aboriginal candidates, but it is believed there are just two Aboriginal people presently serving as councillors in South Australia.<sup>19</sup>

Although candidate numbers have grown steadily over the past two decades, there were still 56 elections in November 2006 that were uncontested (the candidates elected unopposed). Most of these were in rural/regional councils, but even in the metropolitan area there were 12 councillors and two Mayors elected unopposed in five council areas.

Therefore the task of “improving representation” must include new and further efforts to attract not only a more diverse range of candidates, but also increase total candidate numbers.

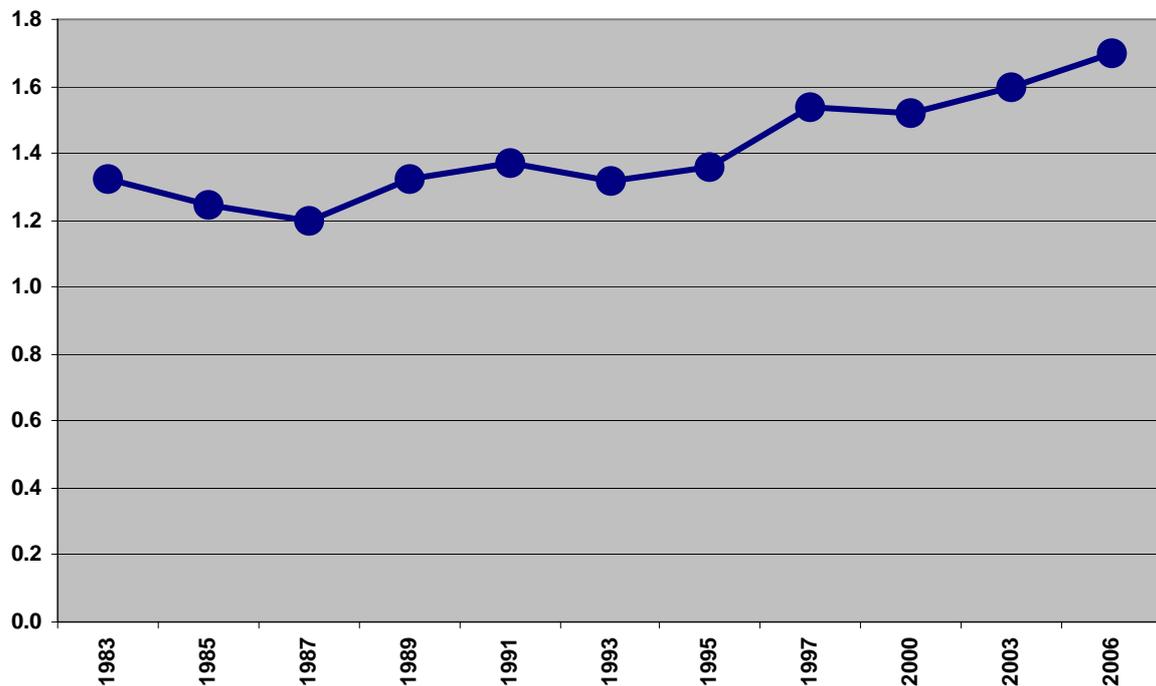
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<sup>18</sup> See the Background chapter of this *Final Report*.

<sup>19</sup> A summary of candidate profiles from Professor Jaensch's report was cited in the *Interim Report* at pages 99-100

## CHAPTER 5 – THE CURRENT SITUATION

Ratio of nominees to LG positions



Some of those who provided comments to inform the *Interim Report* did not support efforts to increase either the diversity of candidates or total candidate numbers. However the Terms of Reference required the Review to propose measures to improve representation, and so the *Interim Report* discussed current initiatives and put forward options and proposals for:

- Strategies for attracting candidates from under-represented groups;
- Briefings and mentoring for candidates;
- Dual candidacy;
- Community leadership programs;
- Allowances; and
- Training policies.<sup>20</sup>

The most contentious of these is dual candidacy, i.e. the proposal that candidates be permitted to nominate for both Mayor and councillor in separate elections for the same council at the same time. This is prohibited in South Australia and Queensland, but permitted in New South Wales and Western Australia. It is irrelevant in Victoria and Tasmania as councillors in these states elect Mayors.

The *Interim Report* pointed out that Mayors who sought re-election in 2006 faced an average of only 1.1 opponents each. Figures from the 2000 to 2006 elections suggest that in council areas where a Mayoralty is contested (even with only one opponent) voter turnout (for councillors) is on average about 2% higher than council elections where the Mayor is returned unopposed.<sup>21</sup>

<sup>20</sup> See section 5.6 (pages 105-123) in the *Interim Report*

<sup>21</sup> See section 5.6.7 (pages 115-119) in the *Interim Report*

CHAPTER 5 – THE CURRENT SITUATION

### **5.3 Improving the Election Process**

Many suggestions for improving the election process were discussed in the *Interim Report*. Proposals or options for change were presented in the *Interim Report* for many of these:

- Caretaker rules;
- Access to electronic voter rolls;
- Dealing with election material that is inaccurate or misleading;
- Supplementary elections; and
- The withdrawal of a candidate during an election period.

CHAPTER 6 – FEEDBACK ON THE INTERIM REPORT**6 FEEDBACK ON THE INTERIM REPORT**

While the Review sought to obtain a wide range of opinion after publishing its three *Issues Papers*, the subsequent *Interim Report* was circulated only to local governments, and to those who had provided their contact details so that they could receive further information about the Review.

The *Interim Report* was also placed on the Review website.

The Review therefore sought detailed comments about the options and proposals presented in the *Interim Report* from those who were highly informed or concerned about local government election issues and processes. The Review was particularly hopeful that those who responded to the *Interim Report* would contribute new thinking, rather than merely state preferences for or against particular options.

Many respondents did so. The Review thanks all those who responded, particularly those who submitted facts, arguments and reasons in support of their views. In some cases these additional materials have assisted the Review to come to conclusions and recommendations in this *Final Report* that were not envisaged in the *Interim Report*.

The Local Government Association of South Australia sought input from all local governments to assist it to develop a submission, which was subsequently endorsed by the LGA Senior Executive. Some local governments also sent their comments directly to the Review and these views are mentioned where they offer something additional to the LGA submission.

Up until 31 December 2007, apart from the LGA's submission, there had been 38 other responses to the *Interim Report*.

- Eleven of these were made on behalf of eleven councils;
- Eleven came from currently-serving Mayors or councillors;
- Two respondents were known to have been past council members;
- Two respondents were known as current local government employees;
- Six came from persons not known to have an attachment to any local government;
- Five came from interested organisations; and
- One came from a member of State Parliament.

The SEO made a submission to inform the *Interim Report* and this has been used to also inform the *Final Report*.

See the list of respondents at Attachment C. All responses received have been published on the Review's web site, at <http://www.localgovt.sa.gov.au/electionsreview/responses/>

## CHAPTER 6 – FEEDBACK ON THE INTERIM REPORT

## 6.1 Optional preferential voting

The *Interim Report* put forward two options:

### **OPTIONS 3.6.2**

- A. Take no action on this suggestion. Optional preferential voting should be examined again if and when either the Commonwealth or the State introduces optional preferential voting.**
  
- B. Consider an amendment to the *Local Government (Elections) Act 1999* equivalent to the “saving” provision in section 63 of the *Electoral Act 1985*, so that candidates may register a “ticket” with the State Electoral Office, and ballots that fail to express a full distribution of preferences may be considered valid by distributing preferences in the manner envisaged by a candidate’s ticket. If this option is pursued, it will be necessary to consider whether the amendment should also (as the Electoral Act 1985 does) prohibit candidates advocating a vote that does not fully distribute preferences.<sup>22</sup>**

The LGA’s response was to support Option A. In particular, it opposed the introduction of “tickets” and associated changes such as “above the line” voting on the basis that these reforms are consistent with the involvement of political parties. The LGA’s view is that this would not be appropriate for local government elections.

Most of those who responded directly to the Review (15 in total) also favoured Option A. Eight respondents rejected both options, and supported immediate introduction of full optional preferential voting. The Review’s discussion and recommendation is dealt with in Section 11.2 of this *Final Report*.

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<sup>22</sup> *Electoral Act 1985* (SA) s.126.

CHAPTER 6 – FEEDBACK ON THE INTERIM REPORT

## 6.2 Targets to improve voter participation

The *Interim Report* put forward two proposals; intended to be complementary of each other:

### **PROPOSALS 4.8.1**

- A. The State Government and the Local Government Association work together and with the Community Engagement Board for SA's Strategic Plan to promote the concepts underpinning Target 5.5 to the local government community; and**
- B. The OS/LGR and the Local Government Association work with local communities, local government and the Community Engagement Board for SA's Strategic Plan to promote increased participation in local government elections.**

The LGA's response was generally supportive of these proposals, and indicated its preparedness ...

... to raise with Councils their willingness to discuss adopting their own turnout target, and subsequently for the LGA to form a view and formally respond to the SASP target. This could be accompanied by development of a model plan to assist Councils to implement strategies to help achieve their targets.

At the same time, the LGA welcomes State Government support...

... in relation to encouraging greater voter participation, but notes that such support should be carefully limited to ensure it is not seen by Councils or the community as inappropriate interference by State Government in local election outcomes. We believe this has been the case to date and would assume the State would want to maintain such limitations.

A few of those who responded directly to the Review took issue with both proposals. Most of the few dissenters objected to the existence of SASP Target 5.5. As the Review has previously pointed out, SASP Target 5.5 was one of the starting points for this Review. The Review's discussion and recommendations are in Section 7.2 of this *Final Report*.

CHAPTER 6 – FEEDBACK ON THE INTERIM REPORT

### 6.3 Election promotion – voter information

The *Interim Report* put forward four proposals, intended to be a complementary package:

**PROPOSALS 4.8.8**

- A. Require all candidates to include, as part of their election profile, lodged with the State Electoral Commission, contact details for voters to obtain more information about their candidacy. This could be a web site, phone number etc.**
- B. Encourage each Council to develop, in conjunction with the Local Government Association, targets for voter participation in the 2010 elections and strategies to achieve these targets.**
- C. Require councils to fund a State-wide creative election promotion campaign by the State Electoral Commission, with a mechanism in regulations to calculate the levy on a per-eligible voter basis.**
- D. These funds also be used to develop a model campaign for large councils with low voter turnout.**

The LGA responded positively to both Proposals A and B, but rejected Proposals C and D on the basis that it would amount to the State Government mandating financial decisions on councils. The LGA's firm view is that local government should remain responsible for its own promotion, and that it should remain the primary driver for its own election campaigns, albeit with support and input from others including the SEO and other State agencies with special expertise. The LGA submission states that it will continue to:

work with those Councils with low voter turnouts (generally larger metropolitan Councils) to identify strategies which may impact more effectively in their areas.

In short, the LGA is not supportive of investing substantially more funds into election promotion to try to achieve a significant increase in voter participation. Most respondents to the *Interim Report* shared views similar to those of the LGA. The Review's discussion and recommendations, informed by these comments, are dealt with in Sections 7.3, 7.5 and 7.6 of this *Final Report*.

CHAPTER 6 – FEEDBACK ON THE INTERIM REPORT

## 6.4 Electronic voting

The *Interim Report* made one proposal that dealt with the possibility of an electronic voting option:

### **PROPOSAL 4.8.12**

**Ask the State Electoral Commission to monitor technologies and safeguards used in other jurisdictions, with a view to the possible introduction of a remote, internet-based electronic voting option, when this becomes feasible.**

The LGA response was that it is “open to such developments”. Most respondents were generally in favour of at least investigating this option, although many were cautious in their comments. The Review’s discussion and recommendations, informed by these comments, are in Section 11.3 of this *Final Report*.

## 6.5 Standardise residential entitlement to vote

The *Interim Report* suggested:

### **OPTION 4.8.13**

**A. Remove the differences in residential qualifications between the House of Assembly roll and the local government roll. That is to say, persons who are**

- **non-citizens;**
- **those who have resided in the district for less than one month; (but who may still be on the roll in respect of their previous address); and**
- **those of “unsound mind”;**

**(who therefore are *not* entitled to vote in State Parliamentary elections) to be also prohibited from voting in their current residential district for local government elections. This would render the rolls entirely consistent with each other, at least for residents.**

All who responded supported this option, except two who appeared to have misunderstood the purpose of this option. The Reference Group, however, gave valuable input about the potential impact of this option in disenfranchising non-citizens who are currently able to vote in local government elections. The Review’s discussion and recommendation, informed by these comments, is in Section 8.1 of this *Final Report*.

CHAPTER 6 – FEEDBACK ON THE INTERIM REPORT

## 6.6 Reform the property franchise

The *Interim Report* put forward three options to deal with the property franchise entitlement to vote. Maintaining the status quo was not one of them.

### **OPTIONS 4.8.13**

**B1. Abolish the property franchise entirely, to render the local government franchise identical with the franchise for the State Parliament; i.e. for resident citizens only.**

**OR**

**B2. Abolish the property franchise for all local governments except the City of Adelaide;**

**OR**

**C. Require any property franchisee who retains an entitlement to vote to complete an enrolment form if he/she wishes to be placed on the roll for any election. This would remove the obligation upon local governments to update and maintain a CEO's roll, except to the extent that franchisees apply for inclusion on the roll. This would be consistent with practice in other States that retain a property franchise.**

The LGA's response was one of strong support for Option C, and reported "very low" support for options B1 and B2.

Most of the direct respondents to the *Interim Report* also endorsed Option C although the Review did receive some significant minority support for options B1 and B2. Among responses to inform the *Interim Report*, where a broader range of community views were obtained, there was much stronger support for abolition of the property franchise. The Review's discussion and recommendations, informed by these comments, are in Section 7.8 of this *Final Report*.

CHAPTER 6 – FEEDBACK ON THE INTERIM REPORT

## 6.7 Compulsory versus voluntary voting

The *Interim Report* put forward two options:

### **OPTIONS 4.8.14**

**A. Postpone consideration of compulsory voting, at least until after the 2010 local government elections, pending implementation of other options intended to improve voter participation.**

**OR**

**B. Introduce compulsory voting in local government elections in South Australia for the 2010 elections.**

Since 1985, the LGA has been monitoring community attitudes to the possible introduction of compulsory voting in local government elections. Eight independently conducted surveys over the past 22 years, commissioned by the LGA, have consistently recorded a majority in favour of the maintenance of voluntary voting. In recent years (since 2001) the percentage has been at or above 66% of those surveyed. Nevertheless:

The LGA would not be opposed to revisiting this question after 2010 elections to determine whether attitudes have changed but does not believe a failure to achieve the SASP target should be used as an automatic justification of the imposition of compulsory voting.

Direct responses to the *Interim Report* also followed the same pattern. There is still considerable support for compulsory voting, but among the respondents to the *Interim Report*, it was not a majority. On the contrary, some respondents were critical of the fact that there was no option to firmly reject compulsory voting. The Review's discussion and recommendations, informed by these comments, is in Section 7.1 of this *Final Report*.

## CHAPTER 6 – FEEDBACK ON THE INTERIM REPORT

## 6.8 A change to the election day?

The *Interim Report* put forward two options for consideration:

### **OPTIONS 4.8.15**

**A. Make no change to the local government election day**

**OR**

**B. Consistent with Option 6.5.15C, change the scheduling of local government elections so that they fall within the middle of the four year term for State Government elections.**

The LGA indicated that its preference would be for no change to the date of local government elections. However, the LGA acknowledged the practical problems with the current timing and expressed willingness to look closely at possible transitional arrangements if elections are to be moved from November 2010. In relation to this there was a view that they should remain in Spring but that selection of any date earlier than the current timing should avoid school holidays and any other activities which may impact on turnout.

The Electoral Commissioner has argued for an election date that falls “within the middle of the four year period for State Parliamentary elections similar to that which has been arranged in both New South Wales and Victoria”.

The Review was surprised that a clear majority of respondents to the *Interim Report* also favoured Option B.

A change in the day would allow for improved service from the State Electoral Office in the both the preparation and running of the election, and would avoid the difficulty of trying to induct new Members over the Christmas/New Year period.

The Council supports Option B but requests that the transitional arrangements be determined as soon as possible and that the system, although based on a fixed date, should have sufficient flexibility to be altered (by regulation) by a month or two whenever it inadvertently is in close proximity to a Federal election given these are not fixed and the term is only a 3 year one.

It appears ludicrous to have both State and Local Government Elections falling within 8 months of each other over a 4-year cycle. It appears that the State Government’s legislative changes that have created this situation were seriously flawed. Council supports Option B.

The Review’s discussion and recommendations, informed by these comments, is in Section 8.2 of this *Final Report*.

CHAPTER 6 – FEEDBACK ON THE INTERIM REPORT

## 6.9 Languages other than English

The *Interim Report* put forward one proposal for consideration:

### **PROPOSAL 4.8.18**

**Ensure that the postal ballot pack contains at least one sentence in each of the 12 most commonly used languages other than English, about the availability of postal voting instructions in those other languages.**

The LGA and an overwhelming majority of respondents supported this proposal. The Review's discussion and recommendations, informed by these comments, is in Section 7.10 of this *Final Report*.

## 6.10 Provisional enrolment for 17-year-olds

The *Interim Report* offered two options in this matter:

### **OPTIONS 4.8.19**

**A. Make no change to the existing provisions;**

**OR**

**B. Legislate so that a person who is provisionally enrolled on the House of Assembly roll as a resident may vote in a local government election, provided that the person will be 18 years or over by the date on which voting closes.**

The LGA and a majority of respondents supported option B.

Council supports Option B. There is a growing interest among young people in the work of Local Government particularly in environmental and social matters. Option B would enhance the opportunity for younger voters to participate and has merit.

The Review's discussion and recommendations, informed by these comments, is in Section 8.3 of this *Final Report*.

CHAPTER 6 – FEEDBACK ON THE INTERIM REPORT**6.11 Candidate mentors**

*The Interim Report* put forward one proposal for consideration:

**PROPOSAL 5.6.1**

The LGA consider the possibility of establishing (prior to the 2010 election campaign):

- a register of experienced election campaigners (e.g. currently serving, or retired elected members from any sphere of government) who are willing to act as a volunteer campaign mentor to a future, inexperienced candidate; and
- a mechanism for matching would-be candidates with a suitable volunteer mentor

and

The LGA and/or the Office for State/Local Government Relations develop a website that provides simple practical information to assist prospective candidates to develop and implement an effective, inexpensive election campaign.

The LGA, in its response, supported the concept of improving general information available to assist candidates to understand how they can go about campaigning. The LGA expressed willingness to consider the concept outlined in the first part of the proposal, albeit with some unease. It noted that some councils expressed reservations about whether the possible involvement of former State or federal MP's might encourage party political influence in local government elections.

Most of those who responded directly to the Review strongly supported this proposal:

Absolutely! These are all very good ideas and we support them all.

I found it very hard when first elected. This is a Great Idea.

This would be very useful - Councils are often called on to provide advice on these matters, which is very inappropriate. Councils need to remain independent and impartial in the process.

The Review's discussion and recommendation, informed by these comments, is in Section 9.1 of this *Final Report*.

CHAPTER 6 – FEEDBACK ON THE INTERIM REPORT

## 6.12 Attracting candidates from under-represented groups

The *Interim Report* made one proposal on this topic:

### **PROPOSAL 5.6.2**

**That the Local Government Association and the Office for State/Local Government Relations develop and implement a series of promotional campaigns, using the framework outlined in section 5.6.2, to attract members of under-represented groups to nominate for the 2010 local government elections. This campaign should be developed to commence implementation at least 12 months before the election date.**

The LGA provided a response that acknowledged previous efforts to help those with a lower level of understanding of local government receive information about nomination and elections. It supported a continuation of past efforts in this regard, albeit "with an earlier timeframe" in future.

In doing so it is important firstly to recognise that potential candidates from such groups will make their own decisions about nominating and that it is important that such a role is not interpreted as assisting particular candidates in campaigning – ahead of other candidates. To avoid any confusion we would suggest a recommendation should refer to information campaigns rather than promotional campaigns.

The Review received several direct responses that were strongly opposed:

This is outright interference. How do you determine an "under-represented group"?

There is no evidence that enticing under represented groups into Local Government will improve the decision-making process.

A few responses considered whether the mechanisms proposed were suitable for this purpose. The Review appreciated this response from the DC of Ceduna:

Our region sees 25% of our population as Aboriginal and we have jointly (with LGA) undertaken promotional campaigns to attract a higher level of Aboriginal participation. This to date has not been successful even though a reasonable level of effort has been undertaken. The issue of improved representation by all under-represented groups is a challenge and one that is not easily overcome with the many and varied pressures of day to day living issues.

The Review's discussion and recommendation, informed by these comments, is in Section 9.2 of this *Final Report*.

CHAPTER 6 – FEEDBACK ON THE INTERIM REPORT

## 6.13 Training opportunities for elected members

The *Interim Report* included this Proposal:

### **PROPOSAL 5.6.3**

**The LGA and the OS/LGR institute an arrangement to measure or monitor the extent to which training opportunities are taken up, and perceptions by participants of the effectiveness of the training.**

The LGA's response pointed out that its Education and Training Service provides an extensive training program for council members (new and continuing) and the take up of placements, particularly for new members, is high.

The introduction in the *Local Government Act 1999*<sup>23</sup> of the requirement for a council to have a training and development policy for its members has also been addressed by the LGA with the provision of a model policy.

Most who responded directly to the Review agreed with this Proposal, though some pointed out what they saw as deficiencies in present training opportunities:

Agree. Unfortunately there is poor participation by some candidates/members. Attendance at training should be mandatory.

Support. Training appointments need to be flexible as enforcing it would limit peoples availability to participate on Council and maintain a work/life balance, therefore potentially reducing the pool of candidates at an election.

The Review's discussion, informed by these comments, is in Section 11.1 of this *Final Report*.

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<sup>23</sup> Section 80A, that requires each council to have a training and development policy for its members, has been in full operation only since 1 July 2006.

## CHAPTER 6 – FEEDBACK ON THE INTERIM REPORT

## 6.14 Dual candidacy

The *Interim Report* put forward three different options on this matter:

### **OPTIONS 5.6.7**

- A. Make no change to the existing provisions.**
- B. Any candidate should be permitted to nominate for both Mayor, and councillor, with the Mayoral position to be decided first. Once the Mayoral ballot has been decided, votes can be counted for positions of councillor. Any votes for a councillor who has become the new Mayor would be transferred to the voter's next preference on the ballot paper.**
- OR**
- C. As for option B, but restrict the option of dual candidacy only to currently serving councillors. Under option C, persons without recent experience as an elected member could still nominate for Mayor, or for councillor, but not for both positions.**

In its submission, the LGA expressed its "strong opposition" to the concept of dual candidacy, and in particular to Option C. A majority of councils responding to its survey supported Option A. There was however some support for Option B and less again for Option C. The LGA's response reflected concern that dual candidacy might be regarded as inconsistent with approaches to State or Federal elections and may confuse voters.

The Electoral Commissioner discussed arguments against dual candidacy. Most of these arguments were considered in the *Interim Report*.<sup>24</sup> Among those who responded directly to the Review, nine favoured Option A, another nine favoured Option B, and eight chose option C, giving a clear majority support for some form of dual candidacy. Comments included these:

Option B. Excellent! Healthy. Retains defeated Mayoral candidate for service as a councillor. Incumbent Mayor has advantage and dual candidacy reduces that advantage. *[From an incumbent Mayor]*

Support B, allowing for dual candidacy. People need as much choice as possible if they are going to be encouraged to vote, and dual candidacy for mayor and councillor should be allowed.

We believe you should allow a past Councillor to apply for both positions as they have the knowledge and understanding of council processes and decision making. Someone who has never been a Councillor should not be allowed to stand for both positions.

The majority of comments that informed the *Interim Report* supported dual candidacy. The Review's discussion and recommendation, informed by these comments, is in Section 9.3 of this *Final Report*.

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<sup>24</sup> at page 117.

CHAPTER 6 – FEEDBACK ON THE INTERIM REPORT

## 6.15 Offer briefings for prospective candidates

The *Interim Report* offered one proposal on this matter:

### **PROPOSAL 5.6.8**

**Encourage other councils to follow the example set by eastern metropolitan region councils in 2006 by offering briefings to potential candidates on a regional basis, prior to the opening of nominations for the 2010 local government elections.**

The LGA noted that it has either run regional briefings in the past or offered to support regional briefings to be run by councils and provides model documents to assist councils to run such briefings:

Such approaches have had mixed success in the past, however the LGA would propose to continue to offer support to Councils with information resources and in other ways for local and/or regional sessions in the future.

Most respondents also supported this proposal. Some respondents from rural and regional councils pointed out that distance might make it impractical for several councils to combine to offer briefings on a regional basis.

The Review's discussion and recommendation, informed by these comments, is in Section 9.1 of this *Final Report*.

## CHAPTER 6 – FEEDBACK ON THE INTERIM REPORT

## 6.16 Introducing pre-election caretaker rules

The *Interim Report* proposed a specific legislative change:

### **PROPOSAL 6.5.3**

Provisions modelled on the Victorian legislation be enacted in the *Local Government Act 1999* or the *Local Government (Elections) Act 1999* prohibiting a council, during a defined election period, from:

- making major decisions about the employment of a permanent Chief Executive Officer;
- entering into a contract or entrepreneurial venture that exceeds a value of \$100 000 or 1% of the council's revenue from rates in the preceding financial year (whichever is greater) unless an exemption is granted by the Minister;
- permitting council resources to be used for the advantage of any candidates; and
- publishing electoral matter (unless it contains only information about the election process).

The LGA had previously surveyed councils regarding its own draft Model Caretaker Policy. Feedback, from a total of 26 councils, was mixed. In its submission, the LGA expressed concern with this proposal, which it believes would put Local Government out of kilter with State and Federal models in relation to caretaker policies. In particular the LGA expressed concern that any provisions proposed to be mandated in the Act should not overly limit normal council business – particularly in a way that might impact adversely on communities.

Among those who responded directly to the Review, nearly all supported the concept of a caretaker period, although some had particular reservations about one or more of the matters proposed to be included.

In regard to the second dot point, there should be an exemption for renewal of contracts e.g. resealing program.

It is important that Caretaker rules are not unduly limiting for incumbent Councils. The day-to-day business of Council needs to continue. It is important that Council is able to undertake all of the activities and tasks that are deemed to be normal practice. For example, major works / projects that are included in the Council approved Annual Business Plan and Budget and have undergone full public consultation and approval processes.

The Review's discussion and recommendation, informed by these comments, is in Section 10.1 of this *Final Report*.

CHAPTER 6 – FEEDBACK ON THE INTERIM REPORT

## 6.17 Length of caretaker period

The *Interim Report* gave two options:

### **OPTIONS 6.5.3**

**The election period, for purposes of the caretaker period, is to be defined as the period ending at the close of voting, but commencing:**

**A. when nominations open (i.e. 66 days).**

**OR**

**B. when nominations close (i.e. 52 days).**

The LGA is still considering all matters related to the caretaker period, but based on council feedback is favouring a shorter rather than longer period.

Among those who responded directly to the Review, eleven supported Option A, eleven supported Option B, and three respondents supported other time periods or none at all.

Option A. Although in the first sentence I would prefer instead 'at the close of voting' to become 'at the declaration of the poll' (even though this would extend the 66 days a little bit).

Council's current policy is for the caretaker period to commence when nominations open. However, Council's submission notes that restrictions must allow for significant decisions to be made that would impact on other time-sensitive legislative requirements or decisions on contractual commitments already entered into prior to the commencement of the caretaker period.

Option A is preferred but the time period should be from when nominations are open to the declaration of the polls.

The Review's discussion and recommendation, informed by these comments, is in Section 10.1 of this *Final Report*.

CHAPTER 6 – FEEDBACK ON THE INTERIM REPORT**6.18 Timing of ballot draw**

The *Interim Report* offered one proposal on this matter:

**PROPOSAL 6.5.8**

**Provide that the ballot draw (to determine the order of candidates on the ballot paper) should be moved from “as soon as is reasonably practicable after the close of nominations” to 4.00pm, four hours after the close of nominations.**

The Electoral Commissioner made this suggestion. There was general support from the LGA and most respondents for setting a definite time. Most had no objection to the proposed hour.

The Review's discussion and recommendation, informed by these comments, is in Section 10.2 of this *Final Report*.

**6.19 Provision of voters roll data**

The *Interim Report* offered two options for dealing with this matter:

**OPTIONS 6.5.10**

- A. Make no change to existing arrangements**
- B. Legislate so that voters roll data may be provided to local government election candidates – only after the close of nominations – in electronic format. Penalties should apply for use of the data for any purpose (or at any time) other than campaigning in the local government election for which the candidate has nominated.**

The Electoral Commissioner is strongly opposed to voters roll data being provided to local government election candidates in electronic form. The LGA supported Option B, as did most respondents (17 in total). Nevertheless, ten respondents preferred Option A. One opined:

A change to provision of electronic voters roll data does not necessarily help to preserve a level playing field for candidates. Experience should suggest that the best way to prevent potential misuse of that data is not to provide it in a format that is conducive to abuse. Council supports Option A.

The Review's discussion and recommendation, informed by these comments, is in Section 10.3 of this *Final Report*.

## CHAPTER 6 – FEEDBACK ON THE INTERIM REPORT

## 6.20 Inaccurate or misleading election material

The *Interim Report* offered one proposal on this matter:

### **PROPOSAL 6.5.12**

**Provisions equivalent to s113 (4) of the *Electoral Act 1985* be inserted into the *Local Government (Elections) Act* to better encourage the withdrawal or retraction of election advertising material that the Returning Officer declares to be inaccurate or misleading.**

Both the Electoral Commissioner and the LGA supported this proposal. All respondents agreed that some action was necessary to deal with inaccurate or misleading election material. Most supported this proposal, although a few had alternative suggestions that they believed would be more effective. The Review's discussion and recommendation, informed by these comments, is in Section 10.4 of this *Final Report*.

## 6.21 Ballot pack design

The *Interim Report* offered one proposal on this matter:

### **PROPOSAL 6.5.14**

**That the Returning Officer, in conjunction with the LGA and the OS/LGR, obtain appropriate advice to review the style, layout and content of the ballot pack and its content to ensure that they are:**

- **eye-catching, yet**
- **recognisably formal and**
- **contain instructions that are as simple as possible to follow, consistent with the need to require the voter to formally assert his/her identity.**

The LGA supported this proposal and noted that it is consistent with the past practice of the SEO to continually review and improve the presentation of ballot pack information and its presentation. Only one respondent objected to this proposal. All others were fully supportive, e.g.:

The Council supports this proposal and considers this matter to be very important.

The Review's discussion and recommendation, informed by these comments, is in Section 7.7 of this *Final Report*.

CHAPTER 6 – FEEDBACK ON THE INTERIM REPORT**6.22 Scheduling of supplementary elections**

The *Interim Report* offered three options for dealing with this matter:

**OPTIONS 6.5.15**

- A. Make no change to the existing provisions.
- B. Notwithstanding the difficulties that this would cause to the State Electoral Office, reduce the length of time that vacancies may remain unfilled by one month, allowing supplementary elections for vacancies that occur before 1 February (rather than the present 1 January) in an election year, if a council is no longer able to operate constitutionally due to the absence of a quorum.
- C. Consistent with option 4.8.15 B, move the dates of local government elections so that they fall within the middle of the four year term for State Government elections, thus permitting more options for the scheduling of supplementary elections to fill casual vacancies.

The LGA supported Option A, which, it reported, was favoured by a significant majority of councils responding to the LGA survey.

It suggested canvassing a proposal that councils might apply to the Minister for an exemption to deal with rare difficulties arising from the existing provision.

Two respondents correctly pointed out that the *Interim Report* was mistaken about the definition of a "quorum". Provided at least one person remains a member of the council, a legal quorum can be obtained. Nevertheless, eleven respondents believed the best response to the problem would be Option C. Five respondents supported Option A; and another four supported Option B.

The Review's discussion and recommendation, informed by these comments, is in Section 10.5 of this *Final Report*.

CHAPTER 6 – FEEDBACK ON THE INTERIM REPORT**6.23 Withdrawal of a candidate**

The *Interim Report* gave four options for this matter:

**OPTIONS 6.5.16**

**A. Make no change to these provisions.**

**OR**

**B. Repeal these provisions and prohibit any withdrawal of a candidate, as per the *State Electoral Act*.**

**OR**

**C. *Require* an election to continue, with remaining candidates, if any, despite the legitimate withdrawal of one or more candidates.**

**OR**

**D. Give the Returning Officer (the State Electoral Commissioner) *a discretion* to either declare that the election has failed, *or* permit the election to continue with the remaining candidates, depending upon whether the Electoral Commissioner is satisfied that a legitimate withdrawal is not tainted by any attempt to manipulate the result of the election.**

Five respondents favoured Option A. Surprisingly, not a single respondent favoured Option B, which would have aligned this aspect of local government elections with the provisions that apply to State elections. Only two respondents favoured Option C and neither gave any reasons. The most popular response (15 in favour) was clearly option D. The LGA agreed:

The LGA would support Option D, which was favoured by the largest number of Councils responding to the LGA survey. Such a provision would need careful consideration.

The Review's discussion and recommendation, informed by these comments, is in Section 10.6 of this *Final Report*.

CHAPTER 6 – FEEDBACK ON THE INTERIM REPORT

## 6.24 Timing of campaign donations return

The *Interim Report* gave two options for this matter:

### **OPTIONS 6.5.18**

**A. Require a campaign donations return to be lodged earlier (say within 30 days or five weeks of the close of voting)**

**OR**

**B. Require a campaign donations return to be lodged later (say by the end of January of the following year)**

The LGA supported Option A, which was strongly supported by councils in its survey. Among direct respondents to the Review, 14 respondents favoured Option A, while nine chose Option B. The Review's discussion and recommendation, informed by these comments, is in Section 11.4 of this *Final Report*.

## 6.25 Scheduling of representation reviews

The *Interim Report* offered one proposal on this matter:

### **PROPOSAL 6.5.19**

**Amend section 12 of the Local Government Act in the manner suggested by the State Electoral Commissioner, to provide that representation reviews may be scheduled by regulation. Consider mechanisms that can be used to ensure compliance with the schedule.**

The Electoral Commissioner made this suggestion. Most respondents (18 in all) supported the proposal, as did the LGA. The Review's discussion and recommendation, informed by these comments, is in Section 10.7 of this *Final Report*.

CHAPTER 6 – FEEDBACK ON THE INTERIM REPORT**6.26 Other suggestions made by respondents**

The *Interim Report* discussed some suggestions that were made by respondents, and resolved to “take no further action on this matter.” Some respondents to the *Interim Report* remained dissatisfied with the Review’s views on these issues, and pressed their views with a further submission on the same subject or subjects.

The Review does not consider it necessary to re-open discussion on these matters, and in most cases, stands by the views expressed in the *Interim Report*. These matters include:

- Prohibiting those without local government experience from nominating for Mayor;<sup>25</sup>
- Restrictions on the terms of office or successive bids for re-election;<sup>26</sup>
- Political parties not being involved with local government;<sup>27</sup>
- Council staff not being involved in election counts;<sup>28</sup>
- Lifting restrictions on what may be included in the ballot pack distributed by the Returning Officer to all electors;<sup>29</sup> and
- Disclosure of political affiliations and pecuniary interests.<sup>30</sup>

A full list of topics that were raised with the Review, but on which the Review has decided to make no recommendation, is provided at Chapter 11 of this *Final Report*.

Some respondents to the *Interim Report* raised new issues or made new suggestions that were not previously considered by the Review. These matters included:

**Establishment of a Local Government Ombudsperson or Complaints Commission**

The handling of complaints about local government is not considered to be relevant to local government elections. The State Ombudsman already has power to deal with complaints concerning local government.

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<sup>25</sup> Discussed at page 18 of the *Interim Report*.

<sup>26</sup> at page 28

<sup>27</sup> at page 29

<sup>28</sup> at page 30

<sup>29</sup> at pages 89-91

<sup>30</sup> at pages 137-138

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**Small rural councils often meet during the day, which tends to prevent “9 til 5” workers participating as elected representatives. Greater and broader participation can be achieved by mandating that council meetings must start no earlier than 6.00 pm.**

While evening times are more convenient for some, there is also a risk that mandatory evening times might discourage some others in rural council areas from nominating at all. The Review does not propose any change to section 81 of the *Local Government Act 1999*, under which each rural council has discretion to set its own time for meetings.

**Change the Representation review process in Section 12 of the *Local Government Act 1999* to leave final decisions in the hands of an independent body rather than the council.**

The topic of representation reviews is discussed further at Section 11.5 of this *Final Report*.

**the State Government ... consider additional remuneration, through an increase in the allowance, to Elected Members to compensate for loss of work time or use of Annual and other leave to undertake official council duties.**

The Review understands that this matter is being progressed in officer-level discussions between the LGA and the OS/LGR.

CHAPTER 7 – RECOMMENDATIONS TO IMPROVE VOTER PARTICIPATION  
THE ESSENTIAL REFORMS

## **7 IMPROVING VOTER PARTICIPATION –** **THE ESSENTIAL REFORMS**

This *Final Report* does not discuss every item in the Review's *Terms of Reference* or every proposal for change that was suggested during the Review's consultation phase from June to August 2007.

Section 3.6 of the *Interim Report* discussed 15 separate proposals that the Review decided to take no further. This *Final Report*, therefore, focuses upon a narrower range of issues that it believes are most likely to impact positively on voter participation.

In relation to the first Term of Reference, improving voter participation, this *Final Report* makes distinctions between:

- a package of major reforms that it sees as essential to achieving improved voter participation; and
- less significant reforms that, while worthwhile or sensible, are not seen as essential.

In the other two main areas, *improving representation*; and *improving the election process*, no such distinction is made and a single list of recommendations is made.

As discussed earlier, the Terms of Reference require the Review to report on the effectiveness of the strategies adopted to improve voter participation at the 2006 elections and to propose further measures that could be taken to increase voter participation. In doing this, the Reviewer was asked to consider voter education, information and promotional issues and opportunities as well as a range of options for fundamental change in the local government electoral scheme that could improve participation.

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## 7.1 Should voting become compulsory?

This issue overshadows all others. It is the ‘elephant in the room’ as one officer described it early in the Review process.

As previously noted in the *Interim Report*, a majority of respondents to this Review opposed compulsory voting. Nevertheless, there was significant minority support: (44.4% of the 299 quantitative responses). A majority of respondents to the *Interim Report* also opposed compulsory voting, albeit once again, with a significant minority who supported it.

Such a reform on its own would, of course, take local government elections not only to the goal of 50% voter participation, but well beyond.

However, before compulsory voting could be introduced, a number of associated questions would need to be addressed.

- Should compulsory voting be conducted via postal ballot (as in Victoria) or via attendance voting (as in Queensland and New South Wales, and all State and Commonwealth elections)?
- What level of penalty should be imposed for failing to vote?
- Which agency should be required to enforce the penalty?
- Should the penalty be imposed at a level that would cover the costs of administering the collection of the penalty?
- If the penalty is set at a level estimated to raise less (or more) than the cost of administering the collection of the penalty, which agency should fund the shortfall (or collect the additional revenue)?
- If any property franchisees retain an *entitlement* to vote (see below) should they also (like residents) be *required* to vote, or could their vote (in contrast to residents) be optional?

This Review has not previously raised these questions; and no input has been sought on these matters. There may come a time when these questions need to be asked, and answered, but the Review does not believe it is necessary to do so now as it is not intended to recommend that voting at the next local government elections should become compulsory.

Rather, the Review believes that consideration of compulsory voting should be deferred until after the next local government elections and in the meantime a comprehensive package of measures should be adopted comprising concerted action to educate and inform potential voters and promote their participation in the next elections. It should be noted that the 2004 election review also supported the continuance of voluntary voting and recommended that there be increased (but unspecified) measures taken to inform and educate potential voters.

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This Review, therefore, proposes a comprehensive package of reforms that aim to give South Australia an opportunity to raise participation rates (by the next elections) to a level higher than previously experienced and perhaps within striking distance of the SASP Target of 50%.

The Review believes that implementing only *some* of these reforms, or adopting a *scaled-down* version of this package, will not achieve the intention of this Review's Terms of Reference.

Accordingly, **the Review recommends:**

**Recommendation 1**

**maintaining voluntary postal voting for the next local government election, and seeking to maximise voter participation through the comprehensive package of reforms contained in Recommendations 2 to 12.**

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## **7.2 Win acceptance of increased voter participation within local government**

This Independent Review was commissioned jointly by the Minister for State/Local Government Relations, and the President of the Local Government Association. The Minister and the President agreed on its Terms of Reference. The first Term of Reference requires this Review to report on “measures ... to increase voter participation in Local Government elections.”

This goal, therefore, has support at the highest levels within both State Government and local government. Nevertheless, the Review became aware during 2007 that the local government sector does not universally accept the value of increasing voter participation.

The Local Government Association held a workshop on 18 October 2007, in association with the LGA Annual General Meeting the following day. The workshop allowed the Reviewer to present many of the proposals and options in the *Interim Report*. In the brief question time that followed, the Reviewer took, from the floor, three questions related to voter participation:

- Why is voter participation considered to be an important issue?
- Why should ratepayers pay – through rates – for promotion of council elections?
- Why should there be an emphasis on participation in local government elections, when the State and federal governments do not have this concern?

Both the Reviewer and other delegates responded to these questions by pointing out, not only the existence of SASP Target 5.5 as a starting point for this Review, but also the benefit that would accrue to local government, from broadening its base of election participants.

Some of the responses to the Review's *Interim Report* reflect the same scepticism that was reflected in the Review's initial consultation earlier this year. Responses to the *Interim Report's* proposals included these:

The target of 50% is just that - a TARGET. It has little ownership by LG, to my knowledge. I'd prefer no action was directed at either proposal but effort in other areas should see a rise in candidate quality, the breadth of representation etc. This should lead to a "natural" improvement.

This is a "Furphy". We need not be positioned by anything including SASP. Voter turnout is a non-issue. We want votes from interested voters, not the rest.

Other local government leaders strongly endorsed the need for increased voter participation to increase the credibility of local government and to support active local democracy.

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It is, however, clear that significant work is required, to gain broader acceptance of the importance of increased voter participation throughout the local government sector.

The SASP Target 5.5 was developed as a measure of strong, connected communities built on effective local democracy and this will be undermined and rendered largely irrelevant unless those within the local government community embrace it. Therefore, **the Review recommends:**

**Recommendation 2**

**that the State Government and the Local Government Association (LGA) work together, with**

- local communities,**
  - local government and**
  - the Community Engagement Board for SA's Strategic Plan**
- to promote increased participation in local government elections and the concepts underpinning SASP Target 5.5.**

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### **7.3 Make it easy for a voter to obtain information about any candidate**

Profiles of candidates must be submitted with a candidate's nomination form. The *Local Government (Election) Regulations 1999* include a number of restrictions on what must NOT be included in a profile. However the regulations do not specify anything that MUST be included in the profile.

The inclusion of a photograph is optional, and the length, of 150 words, is a maximum. The returning officer is not responsible for checking the accuracy of a profile and bears no legal responsibility for its publication.

Although some have criticised the 150-word limit on profiles, both this Review (at p.91 of the *Interim Report*) and the previous 2004 Review have considered that the limit is appropriate for a *publicly-funded* election statement.

The SEO has advised that many candidates supply quite brief profiles, well under the 150-word limit. As previously noted in the *Interim Report*, one of the reasons people gave for not voting in the 2006 local government elections was that they had little or no knowledge of the candidates. Many submissions agreed with this general proposition.

Therefore, **the Review recommends:**

#### **Recommendation 3**

**that candidates be required to insert, into the profiles, contact details to enable voters to find out more about their candidacy. This could be a phone number, email, or website address;<sup>31</sup> and**

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<sup>31</sup> A postal address should not be considered sufficient, as intending voters should not be expected to invest 50c merely in the hope of gaining a response from the candidate.

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**Recommendation 4**

that the LGA and the OS/LGR<sup>32</sup> investigate the feasibility of ensuring that all candidates have an internet presence providing more information than the profile contained in the ballot pack. Each candidate would be required to:

- take personal responsibility for any opinions expressed; and
- indemnify website hosts and publishers from any liability arising from the publication.<sup>33</sup>

The cost of establishing and maintaining suitable internet resources, over a nine-week postal election campaign could be funded by:

- charging a fee to each candidate sufficient to cover the costs.<sup>34</sup> The fee could be collected as the cost of nominating for election; and/or
- the State Government, through the OS/LGR, providing cash and/or assistance in kind (i.e. web servers, the temporary services of administrative officers for web publishing).

Such a scheme would enable statewide promotion of a single web address that would lead voters to information about any candidate.

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<sup>32</sup> It would not be appropriate to expect the State Electoral Office to operate, host, or facilitate such a resource because it would contain political arguments.

<sup>33</sup> As an additional protection, the organisation hosting or publishing the comments might also be protected by a legislated immunity from liability.

<sup>34</sup> i.e. website hosting and bandwidth (data traffic) costs, plus the cost of hiring temporary staff to maintain the web pages during the election campaign period.

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## **7.4 Encourage councils to set voter participation targets**

The Review considers that (in the absence of compulsory voting) there is little prospect of success in reaching SASP Target 5.5 if councils do not take some responsibility for increasing voter participation (or if voter participation is over 50%, maintaining this) in their own council area.

The Review notes that through the process of regionalisation of the SASP, councils and organisations are working together to develop regional targets and strategies to pursue SASP targets. The Review is also aware that in many areas councils are working together to pursue common goals. It would appear that strategies to increase voter participation in local government elections would be strengthened by regional co-operation.

**Therefore, the Review recommends:**

### **Recommendation 5**

**the LGA, with support from OS/LGR, encourage regional organisations of councils and the LGA Metropolitan Group to develop, in conjunction with local communities and the Community Engagement Board for SA's Strategic Plan, targets for voter participation within each region and strategies to achieve these targets.**

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## **7.5 A State-wide creative election promotion campaign**

In every other State, the relevant State Electoral Office or Commission is charged with (and funded to) implement a State-wide advertising campaign to promote local government elections.

In most States, the cost of the publicity is regarded as part of the cost of running the election, and is invoiced to councils accordingly. Western Australia is the exception. In that State, publicity costs are borne by the State Government. See the table on the next page.

These campaigns aim to inform potential voters about the role and value of local government, the role and value of elected members, the up-coming local government election and the importance of voting.

The advertising budget to promote the 2006 South Australian State election was \$1.22 million<sup>35</sup>, and included advertising not only in print but also TV, radio, and website. Of 400 people surveyed in the week after the 2006 State election, 86% recalled some aspect of the SEO advertising campaign.<sup>36</sup>

It is understandable that the LGA and some councils are concerned about what might be perceived as state government interference in local government business but the current situation of local government control of election promotion with the support of the LGA has not impacted on voter participation. Local government is also concerned about the costs that may be involved, but the cost of this measure would be more than offset by the cost *savings* in later recommendations that deal with the CEO's voter's roll.

The Review considers that a well-funded creative advertising campaign would have four specific aims. It would:

- educate South Australians about the role and functions of local government, and the role of elected members;
- inform electors how to find out more about their local candidates;
- encourage voting; and
- explain how to vote; (e.g. with pictures of ballot papers and envelopes etc).

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<sup>35</sup> State Electoral Office *Annual Report 2005-06* p62

<sup>36</sup> State Electoral Office *Annual Report 2005-06* p34

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Accordingly, the Review recommends:

**Recommendation 6**

that prior to the next local government elections, the State Electoral Office (SEO) in partnership with the LGA, call for tenders from suitably qualified advertising agencies to develop and implement an information and promotional campaign to:

- educate South Australians about the role and functions of local government and the role of elected members;
- inform electors how to find out more about their local candidates;
- encourage voting; and
- explain *how* to vote; (with e.g. pictures of ballot envelopes etc)

Funding for this advertising campaign would be secured by amending section 12 of the *Local Government (Elections) Act 1999* so that responsibility for election promotion is shared between councils and the returning officer. This would enable the returning officer's costs of promotion to be recovered from councils under section 13.

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<b>New South Wales</b>	Under legislation, councils have a duty to pay the costs incurred by NSW EC in running the election.	<p>Costs of statutory public notices billed to each council – expected to be a total of \$700,000 in 2008.</p> <p>Costs of statewide general promotional-type publicity expected to total \$1,000,000 in 2008.</p> <p>The bill to each council is calculated on a per-head basis – and identified separately, in council invoices for election running costs. Councils are notified (not consulted) about expected costs.</p>
<b>Queensland</b>	<p>The 2008 local government elections are the first to be conducted centrally by ECQ. In the past, councils have conducted their own elections.</p> <p>No decision has been made about 2012 and beyond.</p>	<p>The cost of running the 2008 LG elections (estimated at \$14.98 million) will be largely (or entirely) recovered from councils. This amount includes spending on publicity.</p> <p>The Qld Government also intends to make some contribution to promotion, by advertising seminars to attract potential candidates.</p>
<b>Western Australia</b>	Local Government has statutory responsibility to publish 'public notices' about dates, nominations etc.	<p>Publicity campaigns to promote enrolment, nominations and voting are authorised by SECWA; and funded jointly by DLGRD and SECWA from a State budget allocation.</p> <p>In 2007 this media campaign cost about \$500,000 – larger than usual - to explain a return to preferential voting.</p>
<b>Victoria</b>	Promotion is considered to be part of the cost of running an election campaign. Councils invite tenders for the job and any electoral commission may tender but in practice since 2002 VEC has done all.	<p>As part of the tendering process, VEC charges a sum per head to all contracted councils. This cost is inclusive of all publicity.</p> <p>Local Government tends to support a strong media campaign to minimise non-compliance in a compulsory voting regime.</p>
<b>Tasmania</b>	Promotion is considered by the SECT to be part of the cost of conducting the election.	All councils are billed per-head for the cost of running the elections, including advertisements. In 2007 the entire cost (including both conduct of elections, and all advertising) was just over \$3.00 per elector (enrollee)
<b>South Australia</b>	Each council is responsible for: "information, education and publicity designed to promote public participation"	The <i>conduct</i> of the election is the responsibility of the returning officer, and councils must defray the returning officer's "costs and expenses"

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## **7.6 Assisting metropolitan councils with their own campaigns**

As noted in Chapter 3 above, the problem of low voter turnout is mostly confined to large councils, i.e. those with over 10,000 population; and especially the largest metropolitan councils. It is obvious that little improvement towards SASP Target 5.5 will be achieved unless greater numbers of the residents of metropolitan Adelaide are encouraged to participate in local government elections.

Accordingly, a priority for a creative advertising campaign must be the development of strategies that are effective in reaching the residents of the Adelaide metropolitan area. This does not mean that rural or regional areas should be ignored. On the contrary, spending in rural and regional areas should match pro-rata the populations in those areas so that they can maintain their relatively successful record in engaging their communities in local democratic processes.

**The Review recommends:**

### **Recommendation 7**

**the creative advertising agency hired to advise on a state-wide campaign also be tasked with devising targeted strategies to address the particular issues for large metropolitan councils where turnout has previously been lowest. This would inform the statewide campaign and also assist these particular councils to undertake additional advertising using the 'model' template, in order to reach metropolitan council and regional targets.**

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## 7.7 Re-design of ballot pack and contents

Although postal voting has increased voter turnout since 1997, postal voting (as a system) is subject to a number of criticisms discussed in the *Interim Report*.<sup>37</sup>

Among these criticisms is that the level of literacy and comprehension required to complete a postal ballot may exceed the capacity of some electors. Other electors might not wish to devote sufficient attention or thought to the process. It is assumed that they are turned off by any requirements that appear too difficult or cumbersome.

For both groups of electors, the postal ballot process needs to be made as simple as possible. Of course this does not mean that changes should compromise the integrity or rigour of the process. It merely means that a considerable effort should be put into getting the balance right.

Accordingly, **the Review recommends:**

### **Recommendation 8**

that the Returning Officer, in conjunction with the LGA and the OS/LGR, obtains appropriate professional advice to review the style, layout and content of the ballot pack and contents to ensure that they are:

- eye-catching, yet
- recognisably formal and
- contain instructions that are as simple as possible to follow, consistent with the need to require the voter to formally assert his/her identity.

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<sup>37</sup> at pages 71-72

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## **7.8 Reform the property franchise**

Why does local government have a property franchise? Why is there no similar franchise for State and Commonwealth elections? State and Commonwealth elections are confined to individuals: one person, one vote. Why is local government different?

### ***7.8.1 The main principle in favour of property franchise votes***

The main reason for allotting votes to property owners, as distinct from residents, is in recognition of the fact that local government revenue is derived, in large part, from a tax on property: rates. It also relies on what was once the catch cry of the American Revolution “No Taxation Without Representation”.

The owners and lessees of commercial property, including the landlords of rental accommodation, have a financial interest in the services that are provided by local government, because those services indirectly benefit their property. There can be no doubt that commercial property owners and lessees are stakeholders in many of the decisions that are made by local government.

The council budget, each year, must balance the competing needs of residents and commercial interests. In many areas, the views of commercial interests might not coincide with the views of residents. Therefore, it is argued that both should be adequately represented on the council, and that means property owners and commercial lessees should be entitled to vote, just as residents are.

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**7.8.2 The main principle in favour of restricting votes to residents**

The main reason for restricting votes to residents is the basic concept of democracy: government of the people, not the property. It is contrary to the basic principle of democracy that a person with a financial investment in real estate should have, not only a vote in respect of where he/she lives, but also one or more additional votes in respect of land that he/she owns or leases for business purposes.

As the *Interim Report* noted, the restricted property-based franchise for South Australia's Legislative Council was abolished as recently in 1973. At the time, all MP's appeared to back the simple argument of the Premier, Don Dunstan, that:

“...the only proper method of electing members of Parliament is the vote of all the people of the State expressed in a way that gives to them an equal say...”

Each State Government in Australia relies on various forms of property taxation. In fact if stamp duty on conveyances is included, the South Australian Government collects more in property taxation than all local governments combined. Yet in spite of the State Government's reliance on property taxation, there are no additional votes allocated to property owners in South Australian State elections.

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### **7.8.3 Additional arguments**

#### **Rate revenue**

Local government is no longer reliant exclusively on revenue from rates. In 2005-06, South Australian councils obtained an average 77% of their revenue from rates. The remaining 23% came from a variety of other sources: grants, fees and charges etc.

Smaller rural councils tend to receive less of their revenue from rates, compared to larger, metropolitan councils. The percentages in 2005-06 ranged from 31% to 91% received from rates.

#### **Why only property owners?**

As noted above, property owners and commercial occupiers may be considered stakeholders in local government, along with residents. However, there are also other stakeholders. People who spend their working day in a particular area may consider that they have just as much interest in the local government of that area as those who live or own property there. For example, it has been suggested that all workers in the Adelaide Central Business District should be permitted to vote in elections for the Adelaide City Council.

Such an argument is not confined to those who work in the CBD. Someone who lives in Jamestown but works in Port Pirie, for example, would have similar interests in the administration of the two council areas.

#### **Non-participation**

Property-franchisees are less likely than residents to participate in local government elections. In the 2006 elections, the participation rate was down to 18.8%, compared to 31.1% for residents. Plainly, the vast majority of property franchisees see no value in exercising their vote.

#### **Cost**

As noted in Chapter 3 above, and also in the *Interim Report* (at pp.80, 81) councils incur significant expense in compiling and maintaining a separate voters roll for local government elections; including, in many cases, manually checking the roll for many hours to remove duplicates. All this effort is wasted when a lack of nominations means no election is necessary. Even in most cases, when an election is required, the vast majority of this effort is still wasted in respect of the 82.8% of property franchisees who choose not to vote.

#### **SASP Target**

If property franchisees were to be removed from the roll for local government elections, the voter participation rate (for all of the residents who would remain on the roll) would undoubtedly increase. The chart on page 16 of this *Final Report* suggests the improvement in voter participation would be in the order of 2%.

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### **Duties of councillors**

Section 59(1)(b) of the *Local Government Act 1999* requires councillors to “represent the interests of residents and ratepayers”. Their duty is not confined to “voters”. Every councillor should take into account the concerns of any resident or ratepayer (including, for example, children) irrespective of whether or not that person is a voter. If a ratepayer does not vote, it should not affect a council member’s duty to that ratepayer under section 59(1)(b).

### **Options**

With regard to *administration* of the property franchise, the Review has already (in the *Interim Report* at pp 80-82) rejected the status quo as a viable option, for reasons of cost. This leads to recommendation 9 below, under paragraph 7.8.4.

However with regard to *eligibility* for the property franchise, there are at least five distinct options available.

1. Abolish the property franchise entirely;
2. Reform the property franchise so that it is available only within the City of Adelaide;
3. Reform the property franchise so that it is available only to property owners, not to commercial occupiers (i.e. business lessees);
4. Reform the property franchise entitlement so that a person is not entitled to vote in more than one capacity in each council election;
5. Maintain the current eligibility for the property franchise.

Bearing in mind the weight of the responses, and the arguments above, the Review has chosen the fourth of these options. The matter is discussed in paragraph 7.8.5 below, and leads into Recommendation 10.

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#### **7.8.4 Enrolling to vote**

Councils should be relieved of most of the administrative burden of preparing a CEO's voters roll comprised of all those (other than residents already enrolled for State elections) entitled to vote. Rather, anyone who retains a separate entitlement to vote (other than residents already enrolled for State elections) should be required to take action to place themselves onto the local government electoral roll.

This reform would respect the fundamental principle advanced at section 7.8.1 above, while also dealing with the issues identified above under the headings "Cost" and "SASP Target"

Therefore, consistent with practice in Victoria, New South Wales, Tasmania, and Western Australia, **the Review recommends:**

#### **Recommendation 9**

**that any person, group or body corporate property *owner or occupier* with a legislative right to enrolment must be offered an opportunity to enrol to vote in any local government election. Voting papers should be sent only to those who have enrolled themselves.**

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### **7.8.5 Entitlement to vote in more than one capacity**

In the case of groups of individuals or bodies corporate, the current legislation requires the group<sup>38</sup> or the body corporate itself to be enrolled as the voter (not any individual natural person representing the group or body corporate). When it comes to filling out a ballot paper and signing a declaration envelope, a person nominated by the group (or by the body corporate) must sign the envelope flap, declaring that he or she is a person nominated to exercise the vote on behalf of the body corporate or group.<sup>39</sup>

That individual, of course, is likely to have a separate entitlement to vote as a resident, in the same or a different council area.

The body corporate or group (like an individual) can vote only once in each ward, but can have multiple votes across multiple councils and multiple wards, depending upon its property holdings. Therefore, the same individual can vote many times, representing the same group or body corporate (to say nothing of the possibility that the individual may be the nominee of multiple groups or bodies corporate).

The above paragraphs apply under the *Local Government (Elections) Act 1999* to elections for any council other than the City of Adelaide.

Under the *City of Adelaide Act 1998*, a different system applies. An individual natural person may vote in only one capacity for any election.<sup>40</sup> Accordingly:

- a City of Adelaide resident cannot vote as *both* a resident, and as the nominee of a group or body corporate that holds property in the City.
- a group or body corporate that holds multiple properties in the City of Adelaide needs to nominate two or more persons to exercise its votes in respect of any two or more properties;
- an individual natural person cannot act as the nominated voter for more than one group or body corporate in respect of property within the City of Adelaide.

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<sup>38</sup> A "group" may be a married couple, e.g. the Mr J. Smith and Mrs R. Smith Group

<sup>39</sup> *Local Government (Elections) Act 1999* s39 (1)(b)

<sup>40</sup> *City of Adelaide Act 1998* Schedule 1, clause 1

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If any individual does vote in more than one capacity for elections to the City of Adelaide, all of that person's votes must be rejected.

The Review believes the property franchise system is overly complicated and reform is needed in the interests of simplification and consistency. Many respondents who were not opposed to the concept of a property franchise nevertheless had the view that no person should have more than one property franchise vote in any single council area. Under such a system, a property franchisee who held property in several council areas would still be able to vote in each council area, but only once for each council.

Accordingly, **the Review recommends:**

**Recommendation 10**

**that the property franchise entitlement for the Adelaide City Council be adopted for the rest of local government, so that an individual natural person is not entitled to vote in more than one capacity for any election.**

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**7.8.6 Nomination of natural person**

In the current system, it is not necessary for a body corporate or group to formally nominate, in advance, the person who will exercise a vote on behalf of that body or group. Rather, the person who completes the ballot paper and declaration envelope certifies by his or her signature that “he or she is eligible to vote and is acting on behalf of the body corporate or group.”<sup>41</sup>

If Recommendations 9 and 10 are adopted, so that:

- property franchisees must enrol before becoming eligible to vote; and
- an individual natural person cannot vote in more than one capacity for any election;

some additional steps could minimise any subsequent administrative steps that may be required to check the entitlements of subsequent voters. The implementation of administrative changes should occur in consultation with the SA Institute of Rate Administrators.

Accordingly, **the Review recommends:**

**Recommendation 11**

**legislating so that groups and bodies corporate that choose to enrol must be (at the time of enrolling):**

- **required to nominate the name of the natural person who is authorised to exercise a vote for the group or body corporate; and**
- **advised by the council CEO that this natural person cannot vote in any other capacity (including as a resident) for the same local government election.**

<sup>41</sup> *Local Government (Elections) Act 1999* s39 (1)(b)

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## 7.9 Languages other than English

The omission of languages other than English from the postal voting guide in 2006 was a serious deficit. It was not sufficient for the postal ballot pack to contain only information *in English* about the availability of information in other languages.

At a minimum, one sentence in each other language should have been provided to explain, in each of those languages, how to obtain further information in that specific language. The SEO has advised the Review that this problem has been recognised and that the proposal has already been acted upon.

Accordingly, **the Review recommends:**

### **Recommendation 12**

**that, as planned by the SEO, the postal voting guide produced for the next local government elections must contain at least one sentence in each of the 12 most commonly-used languages other than English, about how to obtain a copy of the postal voting guide in each of those other respective languages.**

CHAPTER 8 – IMPROVING VOTER PARTICIPATION  
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## **8 IMPROVING VOTER PARTICIPATION -** **THE NON-ESSENTIAL REFORMS**

### **8.1 Standardising residential entitlement to vote**

The *Interim Report* identified discrepancies between the residential entitlement to vote in State elections, and local government elections.

The Review is mindful that its recommendations about the property franchise do not disenfranchise any person who currently has a property franchise vote. They merely change the onus of enrolment, from the council, to the elector.

However, the Proposal in the *Interim Report* to remove differences in residential qualifications between the House of Assembly roll and the Local Government roll would have disenfranchised two groups of residents: those who are of “unsound mind” and those non-citizens who are not property owners.<sup>42</sup> Currently, non-citizen, non-property owners are entitled to apply to be placed on the CEO’s voters roll. The Proposal in the *Interim Report* would have removed that entitlement from them.

The Review put forward that Proposal in the interests of consistency. Voting in State and Commonwealth elections is restricted to resident citizens. Therefore, it is at least arguable that local government elections ought to have the same *residential* criteria.

However, the Review (and members of the Review’s Reference Group) was concerned about the potential that this proposal might have, to discourage non-citizens from getting involved in local government.

In addition to the targets of improving voter participation and the diversity of representation in local government, the South Australian Strategic Plan also includes a target to support multiculturalism (T5.8).

Consistent with these references, there is some argument that the entitlement of non-citizens (i.e. mostly recent migrants) to vote in local government elections reflects the value South Australians place on multiculturalism and introduces non-citizens to engagement with government in at least their local sphere.

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<sup>42</sup> The proposal would not have disenfranchised resident non-citizens who owned property, as they would still have been entitled to vote using their property franchise.

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Accordingly, the Review does not recommend removing the present enrolment entitlement of resident non-citizens, but does recommend:

**Recommendation 13**

legislating to remove two of the differences in residential qualifications between the House of Assembly roll and the local government CEO's roll. That is to say:

- those who have resided in the district for less than one month; (but who may still be on the roll in respect of their previous address); and
- those of "unsound mind";

(who therefore are *not* entitled in respect of their current residential address to vote in State Parliamentary elections) be also prohibited from voting in their current residential district for local government elections.

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## 8.2 Change the election day?

### 8.2.1 *The same day as State elections?*

The Terms of Reference for this Review require the Review to report on:

- The potential impact of holding State and Local Government elections on the same day.

This suggestion is raised from time to time, and has been considered as an attractive option, at least for some purposes.

While this may increase voter turnout, it is not a realistic option unless the principal features of both electoral systems are the same; it would be very complex administratively and confusing for electors. In practice this would require the Local Government election to be conducted with the same franchise (no property franchise, no non-citizens), by attendance at a polling place and with an obligation to vote. In addition it could be quite difficult logistically for candidates wishing to stand for both Local and State governments.<sup>43</sup>

The Review agrees with these comments.

In addition to the practical considerations cited above, the most important argument against this proposal is that it would rob local government elections of their separate identity. Local government issues would be inevitably swamped in the publicity for State election candidates, and voters would have less opportunity to inform themselves of local government candidates and issues.

Secondly, it would place a very great workload on the State Electoral Office over a short period of time.

It is considerations of this nature that have led most States, in recent years, to schedule local government elections in separate years to State elections.<sup>44</sup>

In the Review's public consultation during the course of this year, only three respondents suggested holding local government elections on the same day as State elections, and one of those respondent organisations changed its view after reading the Review's *Interim Report*.

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<sup>43</sup> *Frequency Of Local Government Elections (Term Of Office) And Relationship To State Elections* Discussion Paper Prepared by Tony Lawson 18th August 2004  
[Hhttp://www.lga.sa.gov.au/webdata/resources/files/Election\\_Review\\_Frequency\\_of\\_LG\\_Elections\\_Discussion\\_Paper\\_Tony\\_Lawson2.pdf](http://www.lga.sa.gov.au/webdata/resources/files/Election_Review_Frequency_of_LG_Elections_Discussion_Paper_Tony_Lawson2.pdf)

<sup>44</sup> See the table on page 14.

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### **8.2.2 A different date, a different year?**

There have been several changes over the past 30 years or so, to the timing of local government elections.

For decades, up until the 1980's, local government elections were held annually. The date of the poll was in May. In 1981, the date of the annual poll was moved to the first Saturday every October.<sup>45</sup> That change lasted only four years before two-year terms were introduced, and the election date was moved back to May, beginning in 1985.

Elections were held every two years up until 1997, which was the first election that established a three-year term of office.

Further reform in 2005 introduced four-year terms, and moved the election date to November, eight months after what had then become the fixed date of the State election. In 2006, the scheduled election for the Adelaide City Council was delayed by legislation for up to 12 months, eventually occurring in October 2007 after an extended term of four years, five months.

As noted in the table on page 14 of this *Final Report*, most States now have local government elections scheduled in spring. During the 2004 review of South Australia's local government elections, there was overwhelming support (97%) for elections to be moved from May to a date in spring. The purpose of the move was primarily to avoid a clash with the State election in March 2006, but also to enable new councillors to have some months learning about their new role before being asked to take part in budget considerations in the year after their election.

During the 2004 election review process, local government was asked to consider a proposal to move elections to a spring date further apart from State elections (i.e. either 16-19 months after the 2006 State election or 16-19 months prior to the 2010 State election). There was little or no opposition to this proposal *in principle*. However it was felt, at that time that the transitional provisions that would have been required were unacceptable. At that time, such a move would have required either:

- extending the term of councillors elected in 2003, up to five and a half (or six and a half) years, with a term ending in spring 2007 or 2008, or
- scheduling two local government elections in-between 2006 and 2011 or 2012.

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<sup>45</sup> *Local Government Act Amendment Act No. 2 1980*

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However, the extension of the local government term that occurred in 2006 (delaying elections from May to November 2006) has gone part of the way towards removing the difficulty of future transitional arrangements to accommodate such a proposal.

If local government elections were to be scheduled, in future, exactly 18 months after State elections, the transitional change would require an extension of the current terms of office by only 10 months. Elections would be due in September 2011 rather than November 2010. Such a change would also avoid a potential clash with a Federal election that is now due in late 2010.

The SEO has argued to change the date of the local election so that it falls within the middle of the four-year period for State Parliamentary elections, to allow the SEO to most effectively and promptly meet its responsibilities for both state and local government elections.

The Review was surprised at the level of support from respondents to the *Interim Report* (noted in Section 6.8 above) to the proposal that local government elections be scheduled, in future, in a different year to State elections. Previous to this, the Review had been persuaded that the importance of a stable election date as a base to grow voter participation outweighed the arguments presented to change the election date.

In view of the arguments presented, **the Review now recommends:**

**Recommendation 14**

**altering the date of future local government elections so that they fall 18 to 19 months after the date of State elections. This would require extending the current term of office of all elected councils by 10 to 11 months, to conclude with an election sometime in September or October 2011, and every 4 years thereafter.**

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### 8.3 Provisional enrolment for 17-year-olds?

Seventeen-year-olds can be provisionally enrolled on the electoral roll for the Commonwealth and the House of Assembly. Those that choose to do so are entitled to vote in State elections and Commonwealth elections if the election day falls on or after their 18<sup>th</sup> birthday.

However, when rolls close for local government postal elections, a 17-year-old who is provisionally enrolled will not receive a postal ballot pack and cannot vote, even if his or her 18<sup>th</sup> birthday occurs in the three-month interval between the close of the rolls, and the close of voting.

There is no reason to maintain this anomaly. Most respondents to the *Interim Report* were in favour of removing it.<sup>46</sup> Accordingly, **the Review recommends:**

#### **Recommendation 15**

**amending the *Local Government (Elections) Act 1999* so that a person who turns 18 in the 3-month interval between the close of rolls and the close of voting may vote in a local government election, provided that the person was already provisionally enrolled on the House of Assembly electoral roll.**

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<sup>46</sup> See 6.10 above

CHAPTER 9 – RECOMMENDATIONS TO IMPROVE REPRESENTATION

## **9 RECOMMENDATIONS TO IMPROVE REPRESENTATION**

The Terms of Reference of this Review require an examination of ‘further measures for increasing the range and diversity of candidates’. The Minister for State/Local Government Relations, when speaking about this Review, has emphasised the importance of measures to support women, young people, Aboriginal people and non-professional workers as candidates. South Australia’s Strategic Plan 2007 also includes statements and targets supporting an increase in the numbers of women, Aboriginal people and people from culturally and linguistically diverse backgrounds in leadership positions, including as elected members of local government.

The *Interim Report* discussed the importance of diversity to enrich community decision-making and to encourage the civic engagement of the broad range of community members as participants in community life. The *Interim Report* also recognised the importance of encouraging sufficient candidates to provide a contest in each election within a council area so that all potential voters have the opportunity to exercise their vote.

A number of strategies were developed and implemented to attract and support a more diverse range of candidates to stand for election at the 2006 elections. These had some success in attracting more women and young people to nominate as candidates, but this Review would argue that there is considerable scope for further measures to increase ‘the range and diversity of candidates’.

CHAPTER 9 – RECOMMENDATIONS TO IMPROVE REPRESENTATION

## 9.1 Assisting prospective/potential candidates

During the consultations that occurred during the process of this Review, interested community members and new councillors who submitted to the Review spoke of the difficulties experienced by new candidates in developing and implementing a low cost effective election campaign. **Therefore, the Review recommends:**

### **Recommendation 16**

that the LGA consider establishing (prior to the next election campaign):

- a register of experienced election campaigners (e.g. currently serving, or retired elected members from any sphere of government) who are willing to act as a volunteer campaign mentors to future, inexperienced candidates; and
- a mechanism for matching a would-be candidate with a suitable volunteer mentor.

### **Recommendation 17**

the LGA (or, alternatively, the OS/LGR) develop a website that provides simple practical information to assist prospective candidates to develop and implement an effective, inexpensive election campaign.

The *Interim Report* made recommendations intended to strengthen the system by which potential candidates are briefed on the roles and responsibilities of councillors.

The responses to the *Interim Report* suggest that the programs already in place have high take-up, are well received by participants and are under regular review. Therefore, continuation of the current approach of the LGA and councils, regionally and individually, is supported.

CHAPTER 9 – RECOMMENDATIONS TO IMPROVE REPRESENTATION

## **9.2 Attract candidates from under-represented groups**

In addition to measures to support potential candidates generally, the Review is of the view that particular strategies are required to encourage and support members of under-represented groups to nominate as candidates.

Following analysis of strategies developed prior to the 2006 local government elections and discussion with government and community organisations with expertise in representing and supporting those currently under-represented among candidates and councillors, essential elements of a model campaign to inform and support under-represented these potential candidates is proposed.

**The Review recommends that:**

### **Recommendation 18**

**the LGA, the OS/LGR and State agencies with specialist knowledge of currently under-represented groups develop and implement a series of specifically targeted campaigns, using the framework outlined on page 76, to inform and support members of under-represented groups to consider nominating for the next local government elections.**

CHAPTER 9 – RECOMMENDATIONS TO IMPROVE REPRESENTATION

- **Targeted information and outreach** – information needs to be specifically targeted to a particular under-represented and then sold to that group at a local or regional level.
- **Contact with organisations that can identify and support potential candidates** – identification of organisations well-linked with target groups who can be enlisted as supporters to sell the importance of local government and to identify potential candidates and also to provide a support base if they chose to stand.
- **Asking people to stand** – Most people stand for election because they are asked to stand. Members of under-represented groups are unlikely to have potential supporters within a council to invite their nomination. Therefore respected members of a particular under-represented group should be enlisted to approach local community leaders personally and ask them if they would be prepared to stand as a candidate for election to local government.
- **Role models** – those from under-represented groups need to perceive that they could contribute to a council, if they are to nominate. Therefore existing or past councillors from particular groups should be identified who can be given a profile as part of a targeted campaign.
- **Workshops for particular groups** – Those who are identified as potential candidates need to be given the confidence to be clear that they can contribute to a council. The SEO and the LGA run workshops for candidates, which are well regarded. Targeted groups need that additional assistance of specific workshops that can address their specific concerns and information needs.
- **Quick identification of a support person** – As soon as a person from an under-represented group nominates for election, a support person should be identified, to assist the candidate to develop his/her campaign and help to identify resources to assist the candidate.
- **Council engaging with under-represented groups in the course of their day to day business** – Under-represented groups will consider nominating for election, if they perceive the council as being relevant to them and others like them. Council engagement with all members of their community as important participants in community life and as valued contributors to local decision-making is particularly important. Councils need to demonstrate their interest in the issues that are important to under-represented groups through visible symbols of support, their employment of liaison officers, the establishment of advisory groups, effective consultation and acting on outcomes or recommendations.
- **LGA and State government endorsement** of a strategy and State Agency representatives and the LGA actively supporting the strategy centrally and regionally – Leadership by the LGA and state agencies is critical. State government agencies are already required to have strategies in place to pursue relevant SASP targets. OS/LGR should liaise with these agencies to ensure a concerted approach to encouraging greater diversity among those nominating as candidates. Agencies could use either regional staff or regional networks to support potential candidates with information provision and support. The LGA could provide leadership through liaison and support to regional organisations of councils and through partnerships with relevant state government organisations.
- **Appropriate timing** – potential candidates from under-represented groups should be approached well before an election to allow them time to make a considered decision about possible candidacy. The promotional campaign should be developed such that implementation can commence implementation 12 months before the election date.

CHAPTER 9 – RECOMMENDATIONS TO IMPROVE REPRESENTATION

### 9.3 Dual candidacy

The *Interim Report*<sup>47</sup> canvassed the arguments for and against dual candidacy. It found that in councils with a popularly-elected Mayor, a total of only 40 candidates challenged 36 incumbent Mayors in the 2006 elections, an average of 1.1 challengers per Mayor. Fewer than half of those 40 challenges came from sitting councillors. These statistics indicate the advantage of incumbency in deterring challenges from those who are in a good position to offer an alternative.

A large majority of responses to the *Interim Report* favoured dual candidacy – being split evenly between the two options of any candidate being permitted to stand for both Mayor and councillor and only serving councillors being permitted to stand for both positions. In the consultation that led to development of the *Interim Report*, there was also a majority who favoured dual candidacy. During meetings with individual councils and in regional meetings, mayors were more likely to oppose dual candidacy while councillors were more likely to support it.

The LGA position, determined by its Senior Executive, is to strongly oppose dual candidacy.

As some respondents noted, there is potential for voter confusion on the matter of preference distribution. However the Review believes that this danger is offset by the prospect of increased voter participation, likely to be aroused by an increased field of candidates campaigning for election as Mayor. Statistics in the *Interim Report*<sup>48</sup> make it clear that elections with a contested Mayoral position tend to have about 2% greater turnout than those without.

Counting for the Mayoralty would need to be concluded before counting for councillor positions could begin. With regard to the distribution of preferences from Mayoral candidates, the Review assumes that:

- *in the case of a dual candidate who was successful in contesting the Mayoralty* – he or she would be immediately disqualified from being elected as councillor. His/her votes for councillor would be transferred, at full value, to the person in second preference on the ballot paper.<sup>49</sup>
- *in the case of a dual candidate who was unsuccessful in contesting the Mayoralty*, his/her votes for Mayor would not form any part of the votes counted for councillor. His/her votes for councillor would be counted separately in the normal way.

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<sup>47</sup> at page 117

<sup>48</sup> p.119

<sup>49</sup> This is the position in New South Wales – *Local Government (General) Regulations 2005* (NSW) r.352 (3). It contrasts with Western Australia, where “these votes are to be disregarded”. *Local Government Act 1995* (WA) s4.73 (5)

CHAPTER 9 – RECOMMENDATIONS TO IMPROVE REPRESENTATION

The Review further assumes that if, at the close of nominations, a dual candidate was elected unopposed as Mayor then that person's nomination for councillor would be automatically cancelled so that it would not appear on the ballot paper at all.<sup>50</sup>

These assumptions would need to be further explored as part of the development of any draft legislation to implement a system of dual candidacy. The imperative should be to create a system that is fair, transparent, and as easy to understand as possible, consistent with the concept of dual candidacy.

The *Interim Report* put forward two options for dual candidacy; one to extend the option to all candidates, and another to restrict its availability to those with previous experience as councillors. Although eight respondents favoured the latter option, there were few who advanced arguments in support of excluding newcomers from dual candidacy. Neither New South Wales nor Western Australia restricts its availability. Therefore, **the Review recommends:**

**Recommendation 19**

**the *Local Government (Elections) Act 1999* be amended so that in council areas with a popularly-elected Mayor, any candidate may nominate for both Mayor and councillor, with the Mayoral position to be decided first. Once the Mayoral ballot has been decided, preferences can be distributed for positions of councillor.**

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<sup>50</sup> This is in accordance with the *Local Government Act 1995* (WA) s4.54 (4)

CHAPTER 10 – RECOMMENDATIONS TO IMPROVE THE ELECTION PROCESS

## **10 RECOMMENDATIONS TO IMPROVE ELECTION PROCESS**

The Review was required to address any legislative or administrative improvements that can be made to the local government election procedures and process, to address any unintended consequences that may have arisen through recent legislative changes and to address any matters raised by the Electoral Commissioner.

The Terms of Reference itemised a range of issues that were identified in the course of the 2006 elections for particular consideration. These were all discussed in detail in the *Interim Report* but only those issues that clearly require further attention are discussed here.

CHAPTER 10 – RECOMMENDATIONS TO IMPROVE THE ELECTION PROCESS

## **10.1 A caretaker period**

In any sphere of government, the rules of caretaker periods are designed to maintain public confidence and minimise the risk that:

- incumbents might have an unfair advantage over challengers in the election contest; and
- incumbents might burden any newly-elected government with implementing last-minute policies of the outgoing government.

Very few councils have experienced difficulties or criticism about decisions taken by, or resources used to the advantage of, incumbents immediately before an election. Nevertheless there have been isolated difficulties, and there is widespread agreement that action should be taken to avoid any potential future problems.

Although most respondents, including the LGA, have supported the concept of introducing a caretaker period before local government elections, there has been some doubt about how such a change might affect the normal business of local government.

The Review considers that any legislation to introduce a caretaker period should make clear that such a period must not prevent a council from carrying out its statutory responsibilities or prevent a council from carrying out or implementing decisions that have already been approved in the council's budget.

The Review understands that there may be a distinction between a committal of funds in the budget (previously approved) and a decision to enter a contract with a particular tenderer or supplier (to give effect to the budget decision) that might come up for decision by the elected council in the caretaker period. The Review believes that distinctions of this nature may be appropriately considered during the process of drafting legislation, and seeking public comment on a draft Bill.

The Review welcomes and supports the LGA's suggestion that a minimum standard be inserted into legislation, but that councils also have the opportunity to develop a more far-reaching caretaker policy if they wish.

One respondent suggested that councils ought to be free to publish election material in a caretaker period, provided that the material referred in an equal manner to all candidates. A practical impediment to this proposal may be that one candidate declining to participate (e.g. by refusing to provide a photograph) might prevent the council publishing any material about the remaining candidates. Nevertheless, those pursuing this matter in a legislative context should consider this suggestion.

CHAPTER 10 – RECOMMENDATIONS TO IMPROVE THE ELECTION PROCESS

Two respondents correctly pointed out that a caretaker period should end, not at the close of voting for an election, but at the declaration of the poll, when the new council is formally declared elected. This would extend a caretaker period by about a week. Although responses to the *Interim Report* were evenly split on when a caretaker period should begin, the LGA has suggested minimising the length of time, and commencing the period when nominations close. On the other hand, the Electoral Commissioner is of the view that the period should commence when nominations open. On balance, the Review is of the opinion that the minimum period should commence at the later date, but that each council should be free to endorse, in its caretaker policy, a longer period. Accordingly, **the Review recommends:**

**Recommendation 20**

legislating so that each council is required to have a policy for caretaker rules. The legislation should require each council's policy to at least prohibit, during a defined election period:

- a council making decisions about the employment of a permanent Chief Executive Officer;
- a council entering into a contract or entrepreneurial venture that exceeds a value of \$100 000 or 1% of the council's revenue from rates in the preceding financial year (whichever is greater) unless an exemption is granted by the Minister;
- the use of council resources for the advantage of any candidate; and
- a council publishing electoral matter (unless it contains only information about the election process)

while leaving each council free to adopt more far-reaching caretaker rules, if it wishes.

**Recommendation 21**

the election period, for purposes of a council's caretaker policy, be defined as the period commencing when nominations close (or earlier, at the discretion of the council) and ending at the conclusion of the election.

CHAPTER 10 – RECOMMENDATIONS TO IMPROVE THE ELECTION PROCESS**10.2 Timing of ballot draw**

As noted at 6.18 above, there were few objections to the proposal that was put forward (originally by the Electoral Commissioner, and then in the *Interim Report*) to move the ballot draw to the fixed time of 4pm after the close of nominations at midday.

One suggestion was made that scheduling the draw for 4pm might inconvenience those who were at work and would be unable to attend at that time. Although candidates understandably would want to attend the ballot draw, it is not essential for them to do so. **The Review recommends that:**

**Recommendation 22**

the ballot draw (to determine the order of candidates on the ballot paper) be moved from “as soon as is reasonably practicable after the close of nominations” to 4.00pm, four hours after the close of nominations.

CHAPTER 10 – RECOMMENDATIONS TO IMPROVE THE ELECTION PROCESS

### 10.3 Voters Roll data

As noted at 6.19 above, most respondents to the *Interim Report*, including the LGA, were in favour of removing the present anomaly that permits voters roll data to be provided in electronic form to political parties but not to individual candidates.<sup>51</sup> The Review notes that the SEO is strongly opposed to the release of the voters roll in electronic form to local government election candidates on the grounds that:

- the information has been provided by voters for electoral purposes, not so that they can be directly canvassed by candidates for local government elections; and
- the wider distribution of the electoral roll increases the risks that the information may be misused.

The Review is conscious that its Terms of Reference includes the requirement to improve representation and is of the opinion that candidates should be given all the help they can get to run effective election campaigns, subject to strong penalties for misuse of roll information. The Review notes that misuse of Commonwealth electoral roll data attracts a maximum penalty of \$110,000.<sup>52</sup> Accordingly, **the Review recommends:**

#### **Recommendation 23**

**Legislating so that voters roll data may be provided to local government election candidates – only after the close of nominations – in electronic format. Consistent with the *Commonwealth Electoral Act 1918*, significant penalties should apply for use of the data for any purpose (or at any time) other than campaigning in the local government election for which the candidate has nominated.**

<sup>51</sup> For more detailed discussion of this topic see the *Interim Report* at pp 143-144

<sup>52</sup> *Commonwealth Electoral Act 1918* s.91B. Under the *State Electoral Act 1985*, limited data from the voters roll may be given to Members of Parliament, subject to conditions determined by the Commissioner. The maximum penalty for contravening or failing to comply with a condition is \$1,250.

CHAPTER 10 – RECOMMENDATIONS TO IMPROVE THE ELECTION PROCESS

## 10.4 Inaccurate or misleading election advertisements

As noted at 6.20 above, most respondents to the *Interim Report*, including the LGA, were in favour of amending the *Local Government (Elections) Act 1999* to render it consistent with the *Electoral Act 1985* in the manner of dealing with allegedly inaccurate or misleading statements.<sup>53</sup> Accordingly, **the Review recommends:**

### **Recommendation 24**

**the *Local Government (Elections) Act 1999* be amended to insert provisions equivalent to s113(4) of the *Electoral Act 1985* to better encourage the withdrawal or retraction of election advertising material that the Returning Officer declares to be inaccurate or misleading.**

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<sup>53</sup> For more detailed discussion of this topic see the *Interim Report* at pp 147-149

CHAPTER 10 – RECOMMENDATIONS TO IMPROVE THE ELECTION PROCESS

## 10.5 Supplementary elections

As the *Interim Report*<sup>54</sup> explained, changes made by the *Statutes Amendment (Local Government Elections) Act 2005* prevent a council from holding a supplementary election in the year in which a periodic (general) election is due. This means that prior to the 2006 elections, one or more vacancies on some councils remained unfilled for up to ten and a half months.

Prior to the commencement of the *Statutes Amendment (Local Government Elections) Act 2005* a council was prohibited from holding a supplementary election only within five months of the date of a periodic (general) election.

The operation of the 2005 amendments left the Kangaroo Island Council with only five councillors for most of 2006; unable to replace any of the three who resigned early in the year. One of the reasons for the 2005 legislative change was the potential difficulty of conducting supplementary elections for local government in the same time period as the State election in early 2006. Another reason was to reduce the number and therefore the cost to communities of supplementary elections.

This Review has recommended<sup>55</sup> that the date of local government elections should be changed to a date approximately 18-19 months after each State election, commencing in spring 2011.

If this recommendation were to be adopted council terms would need to be extended until spring 2011. In these circumstances it is plainly foreseeable that some councillors who were elected for a four-year term in 2006 might wish to retire before the delayed election were to become due in 2011. In addition many councils argued to the Review that the introduction of four-year terms was likely to increase the number of councillors who were unable to complete their terms.

There needs to be an appropriate balance struck between minimising the cost to communities of supplementary elections, and the need for communities to be adequately represented in the last 12 months of a council term, whether extended or not.

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<sup>54</sup> at pages 153-154

<sup>55</sup> See Recommendation 14, at section 8.2.2 above.

CHAPTER 10 – RECOMMENDATIONS TO IMPROVE THE ELECTION PROCESS

One option to consider is to return to the status quo as it was before 2005; namely to prohibit supplementary elections only in the last five months before any periodic (general) election is due. However, the Review has not sought public comment on this question and so cannot make such a specific recommendation.

This question will arise for consideration only if the Review's earlier recommendation (No 14) is adopted. Therefore, **the Review recommends:**

**Recommendation 25**

**that if recommendation 14 is to be adopted, further consultation occur with local government and the public to determine how best to strike a balance between:**

- **maintaining local government representation by filling casual vacancies, especially before the delayed 2011 periodic (general) election, but also in years thereafter; and**
- **minimising the cost to communities of an expected increase in the number of supplementary elections that might be required.**

CHAPTER 10 – RECOMMENDATIONS TO IMPROVE THE ELECTION PROCESS**10.6 Withdrawal of a candidate**

As discussed in the *Interim Report*<sup>56</sup> candidates are not generally permitted to withdraw from an election after nominations have closed. Exceptions are allowed only on the grounds of:

- serious illness, or
- the candidate “ceases to be qualified for election.” e.g. ceases to be an Australian citizen<sup>57</sup>

There is no provision in the *Electoral Act 1985* that permits a candidate to withdraw their candidacy for a State election for any reason.

As noted at 6.23 above, most respondents to the *Interim Report*, including the LGA, were in favour of an option under which the Returning Officer would have the discretion to determine whether an election could continue despite the withdrawal of a candidate after the conclusion of the nomination period.<sup>58</sup>

However, the Electoral Commissioner is strongly opposed to this proposal. The Electoral Commissioner is concerned about being placed in the position of needing to investigate what might be conflicting claims about the reasons for a candidate’s withdrawal.

Despite the arguments in favour of change made by the LGA and many of those who submitted to the Review, the Review believes that further discussion is required if any proposal to change the current provisions is to be developed.

**Accordingly, the review recommends:**

**Recommendation 26**

**that there be no change to the existing provisions for the withdrawal of any candidate after nominations have closed, pending further discussion with local government and the SEO.**

<sup>56</sup> At pages 155-156

<sup>57</sup> There are other ways that a candidate can cease to be qualified for election especially if the property franchise is maintained and a body corporate nominates a person as a candidate – see s.17 of the *Local Government (Elections) Act 1999*

<sup>58</sup> For more detailed discussion of this topic see the *Interim Report* at pp 155-156

CHAPTER 10 – RECOMMENDATIONS TO IMPROVE THE ELECTION PROCESS**10.7 Scheduling of representation reviews**

As noted at 6.25 above, most respondents to the *Interim Report*, including the LGA, were in favour of requiring councils to complete their representation reviews to a timetable scheduled in regulations.<sup>59</sup>

As a matter of course, the Minister would consult with the LGA before making a regulation.<sup>60</sup> If the following recommendation were to be adopted, and amending legislation passed, there would be an opportunity for the Minister and the LGA to consult about the precise schedule that will be required in subsequent regulations, and any mechanism to encourage compliance. Accordingly, **the Review recommends:**

**Recommendation 27**

amending section 12 of the *Local Government Act 1999* to provide that representation reviews may be scheduled by regulation. In the process of consulting on the regulations, the Minister and the LGA should consider mechanisms that might be adopted to ensure compliance with the schedule.

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<sup>59</sup> For more detailed discussion of this topic see the *Interim Report* at p 160

<sup>60</sup> Pursuant to *Local Government Act 1999* s303 (9)

CHAPTER 11 – MATTERS ON WHICH THE REVIEW MAKES NO RECOMMENDATION**11 MATTERS ON WHICH THE REVIEW MAKES NO RECOMMENDATION****11.1 Monitor the effectiveness of training**

Once a candidate has been elected as a member of local government, the need for training and development does not cease.

The *Interim Report* noted<sup>61</sup> that a council must have a training policy for its members, and details of members' training must be included in the council's annual report. However, some respondents to the Review advocated compulsory training.<sup>62</sup>

The LGA pointed out in its submission that there are extensive training opportunities provided to elected members, and there is a high take-up rate, with 3000 attendances recorded to October for 2007/08. This would include both elected members and council staff.

The LGA's annual report for 2006-07 reports that in the period after the November 2006 elections, and up until 30 June 2007, 23 training sessions were provided. A total of 361 council members (49% of the total number) attended.

The Review believes the current requirement for every council to have a training policy is a sufficient legislative intervention, and encourages the LGA to continue its existing regime of providing and monitoring the effectiveness of training.

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<sup>61</sup> at page 111

<sup>62</sup> See section 6.13 above

CHAPTER 11 – MATTERS ON WHICH THE REVIEW MAKES NO RECOMMENDATION

## 11.2 Optional preferential voting

Some respondents to the *Interim Report* argued that the introduction of full optional preferential voting<sup>63</sup> would increase voter participation, suggesting that some people have refrained from voting at all rather than complete preferences for more than the number of persons that they personally know. Professor Dean Jaensch has argued that full preferential voting “cannot be justified under any definition of democracy” and that the major political parties “resist allowing voters to have the democratic right of optional preferential voting” so that they can do preference deals, based on the assumption that most voters simply copy the party’s preferences from a how-to-vote card, onto their ballot paper.<sup>64</sup>

The Review acknowledges that in local government elections (compared to State or Commonwealth elections) electors are more likely to have an expectation of personally knowing a candidate for election to local government. Nevertheless, the Review does not accept the argument that the most effective way to combat a lack of information is to move local government away from the preferential voting system that is used in both Commonwealth and State elections. Rather, the Review believes that a preferable response to a lack of information is to create a system that makes the necessary information available. The Review’s earlier recommendations (particularly Recommendations 2 to 6) are intended for that purpose.

Both the LGA and a majority of respondents opposed a move to optional preferential voting. The Electoral Reform Society correctly pointed out, in its response, that the system of voting in use in local government elections is already a compromise between optional preferential and full preferential voting. The short explanation of each is:

- **Optional preferential** – allowing each voter a choice whether to express merely a first preference, or two or more preferences. In a full optional preferential system, any vote would be valid provided at least a first preference was expressed.
- **Partial preferential** – the requirement to insert more than a single preference, but less than a full distribution of preferences. This is the system currently in use in local government. For example when there are 20 candidates standing for eight vacancies, a vote will be considered valid if it expresses preferences one to eight, or more; and
- **Full preferential** – the requirement that a preference must be expressed for every candidate, For example when there are 20 candidates standing for eight vacancies, a vote will be considered valid only if it expresses all preferences, one to 20.

Despite some persuasive arguments in support of optional preferential voting, the Review is not persuaded to recommend further divergence from the voting system used in Commonwealth and State elections.

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<sup>63</sup> i.e. a vote where merely a single number [1] and no preferences for any other candidate would be considered valid.

<sup>64</sup> ‘Preferences system encourages chronic voter apathy’ *The Advertiser* 8 Aug 2007 p.18

CHAPTER 11 – MATTERS ON WHICH THE REVIEW MAKES NO RECOMMENDATION

### **11.3 Evaluating possible electronic voting**

Several submissions urged the Review to make a recommendation in favour of the introduction of electronic voting. Some respondents suggested that this would undoubtedly improve voter participation.<sup>65</sup>

The Review would have preferred to have reliable data to assess the likely cost and benefits of introducing electronic voting as an optional adjunct to postal voting. However the Review took the view that obtaining such data estimates would take the Review outside the realm of policy and into the realms of technical and contractual specifications and market research.

The Review has had no indication that either the Australian Electoral Commission or the SEO is planning to obtain relevant data on these matters, in the immediately or foreseeable future. That is not surprising, as there appears to be no pressing reason for either Commonwealth or State elections to move away from the attendance voting model.

The Review does not believe that there is justification for local government to be asked to bear the financial burden of leading such an inquiry. Therefore, although the Review sympathises with the view that electronic voting is an idea whose time has come, the Review suggests that the SEO continues to monitor safeguards and technologies used in other jurisdictions to assess the feasibility of introducing a remote, internet-based electronic voting option at some time in the future.

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<sup>65</sup> See 6.4 above

CHAPTER 11 – MATTERS ON WHICH THE REVIEW MAKES NO RECOMMENDATION

### **11.4 Timing of campaign donations return**

The *Interim Report*<sup>66</sup> considered that the current time limit, for a candidate to supply a campaign donations return is impractical. For an election that concludes in November, the six-week time limit expired in the week of Christmas.

Given options of either a shorter or longer time limit, most respondents, as noted at 6.24 above, were in favour of a shorter time limit, i.e. 30 days.

However, if recommendation 14 is adopted, and the date of local government elections is moved to September or October from 2011, then the existing time limit of six weeks would no longer need to be altered.

If recommendation 14 is not adopted it would be necessary to shorten the time for the supply of campaign donation returns to 30 days.

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<sup>66</sup> at pages 158-159

CHAPTER 11 – MATTERS ON WHICH THE REVIEW MAKES NO RECOMMENDATION

## 11.5 Reform of Representation Reviews

Each council must carry out a representation review at least once in every eight years, using the process specified in section 12 of the *Local Government Act 1999*. The *Interim Report* devoted only brief attention to the subject of representation reviews:

Representation reviews are a very important part of the local government election process and it may be that a review of the process is warranted, but this Review was not required to specifically address this issue. As such the detailed analysis and public consultation this topic warrants has not occurred and this Review cannot pursue it further.

Both the Electoral Reform Society of SA and the Proportional Representation Society of Australia were disappointed with this conclusion. Both submitted the view that an independent person (and not the council) should be the final arbiter of any change to the council's representation structure, after the council conducts a review.

The Review accepts the general proposition that the view of an existing council towards the representation review process may be coloured by the electoral prospects of its members under each of the various options. Amendments made in 2005 were designed to deal with this by introducing a new requirement:

- (5) A council must, in order to commence a review, initiate the preparation of a paper (a representation options paper) by a person who, in the opinion of the council, is qualified to address the representation and governance issues that may arise with respect to the matters under review.
- (6) The representation options paper must examine the advantages and disadvantages of the various options that are available to the council under subsection (1).

The preparation of a representation options paper by a suitably qualified person was intended to draw the council's attention to options it might not otherwise consider. It is true, as the Electoral Reform Society and the Proportional Representation Society have pointed out, that the provision of an options paper does not remove from the council the final choice of options. However, this is consistent with the legislative status of local government in South Australia.

The Review does not consider there is sufficient justification to remove from councils the present discretion conferred by section 12, to make the final decision on a representation review, particularly as the amendments introduced in 2005 have yet to be thoroughly tested.

CHAPTER 11 – MATTERS ON WHICH THE REVIEW MAKES NO RECOMMENDATION

The Review is of the belief that one aspect of section 12, enacted in 2005, may have hastily removed an element of autonomy and discretion from local government. Subsections 12(11a) to (11d) put a very high obstacle, a poll of electors,<sup>67</sup> in front of any council that wishes to alter the method of electing its principal member.

In most local government areas throughout Australia, the principal member of a council is chosen from among the ranks of elected councillors.<sup>68</sup> In South Australia, it is more common for councils to have a popularly-elected mayor and although this would appear to have strong public support, the alternative arrangement is not inherently undemocratic or even controversial.

The Review does not consider that any council should be forced to change its method of electing its principal member, but this matter could be properly addressed through the process of a normal representation review.

The Review is however aware that none of the issues surrounding representation reviews have been thoroughly addressed in this Review as they were not included in the Terms of Reference. Therefore, although a change to some existing provisions may be appropriate, the Review feels that additional consultation and analysis is required before a recommendation for change is made.

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<sup>67</sup> Not just a poll, but a poll that attracts participation from "a prescribed level of voter participation"- s.12 (11d).

<sup>68</sup> In Victoria, it is the only permissible method of electing a mayor. In New South Wales 123 out of 152 councils have mayors elected from within the council, and in Western Australia the figure is 117 out of 140.

CHAPTER 11 – MATTERS ON WHICH THE REVIEW MAKES NO RECOMMENDATION

## **11.6 Other matters**

The Review's *Interim Report* listed a number of matters on which the Review put forward no proposal or option for further consideration. For the sake of completeness, these matters are listed on the following page.

The reasons for the decisions not to pursue these issues are discussed in detail in the *Interim Report* at the pages indicated below. Generally these matters were not pursued because:

- they were not included in the Terms of Reference and so had not been flagged for consultation; or
- they were perceived to be an issue by very few respondents; or
- the existing arrangements appeared effective and were well supported; or
- there did not appear to be sufficient justification to further diverge from the arrangements that exist in Commonwealth and State elections.

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Should council staff be prohibited from some aspects of running the election?	30
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## **ATTACHMENT A - TERMS OF REFERENCE**

The review is to report to the Minister for State/Local Government Relations and the President of the Local Government Association on:

- the effectiveness of strategies for improving participation at the 2006 Local Government elections, and further measures that could be taken to increase voter participation in Local Government elections;
- further measures for increasing the range and diversity of candidates for Local Government election, and encouraging effective civic participation in councils;
- any legislative or administrative improvements that can be made to Local Government election procedure and practice on the basis of experience, including ways to redress any unintended consequences of the changes made by the [Statutes Amendment \(Local Government Elections\) Act 2005](#), and any matters raised by the Electoral Commissioner; and
- other issues as appropriate and agreed between the Minister for State/Local Government Relations and the Local Government Association

The review should cover the issues identified as examples in the following appendix, but is not limited to these.

## APPENDIX TO THE TERMS OF REFERENCE

### 1. Improving Local Government voter participation.

The review should examine participation experience, factors affecting participation (both generally, and any specific factors that appear to have affected participation in 2000, 2003 and 2006), the voting patterns and motivations of electors, especially in larger metropolitan councils, the effectiveness of information and promotional strategies for improving participation in 2006, and further options for improving participation. Issues in voter education and information and election promotion include:

- The roles of councils, the LGA, the Electoral Commissioner and OSLGR.
- What information voters need about candidates to make a decision to vote, and how this is best provided, including –
  - suggestions that candidates should indicate political affiliations
  - the role of, and current restrictions on, the candidate profile included with postal voting papers.
- Strategies to improve the participation of under-represented groups, including the targeting of information to specific socio-demographic groups.
- Access to voting information in languages other than English.
- Strategies to improve the participation of electors who are non-residential property owners/occupiers.
- Better education and promotion on how to lodge a postal vote.

Options for changes to the basic features of the Local Government electoral scheme designed to improve participation should also be explored. These could include:

- Modifying mandatory postal voting and providing for attendance voting options.
- Options for absentee voting, such as the lodging of votes at the council office, including votes relating to other council areas, and whether there is a need to make specific provision for voting papers to be sent to an elector who is absent from the area at an address other than the address on the roll.
- Changes to the property franchise and its operation, including optional enrolment for non-resident property owners/occupiers.
- Consideration of voluntary vs. compulsory voting.
- The potential impact of holding State and Local Government elections on the same day.
- Having a consistent method of voting across all 3 spheres of Government.
- Electronic voting options.

In considering options the review should take into account a range of matters including relevant democratic principles, the inter-relationships between different features of the scheme, complexity and cost/benefit.

## **2. Improving Local Government representation.**

The review should examine the effectiveness of strategies for encouraging nomination at the 2006 elections, and options for increasing the range and diversity of candidates for Local Government election, and encouraging effective civic participation in councils. Issues under this heading include:

- Measures to increase the number of candidates from under-represented groups such as women, young people, Aboriginal people, and non-professional workers.
- The elements of successful candidate campaign strategies, and measures to support candidates.
- An appropriate mechanism for setting council members' allowances.
- On-going programs for developing people as civic leaders who may be future council members.
- The age requirement for standing and voting in Local Government.
- Support for genuine consultation and community engagement initiatives in Local Government.

### 3. Improving the Local Government election process.

Issues identified in the course of the 2006 Local Government election process include:

- Caretaker rules/conventions for Local Government to avoid councils making major decisions that would bind an incoming council, prevent the use of public resources in ways that are seen as advantaging or promoting sitting council members who are seeking re-election, or new candidates and ensure council officers act impartially in relation to candidates.
- Current provisions for deferral of supplementary elections until the general election when a casual vacancy occurs on or after 1 January of a general election year, in cases where a number of vacancies occur and the council then operates with this reduced representation for a long period.
- Whether "election period" needs to be defined for the purposes of electoral material.
- Provisional enrolment for 17 year olds.
- Strategies to improve the quality of the council's voters roll.
- The eligibility provisions for nomination relating to previous criminal offences, and whether candidates should be required to provide publicly accessible information about any history of serious criminal offences.
- Considering the option for Mayoral nominations to close 2 days prior to remainder of positions, to reduce the last-minute nomination rush.
- Closing nominations at 12:00 noon, and conducting the ballot paper draw at 4:00 pm.
- The form in which roll data is provided to candidates.
- The policies and practices of councils in relation to the control of election signs.
- Effect of the current provisions relating to failure of the election due to a candidate withdrawing or becoming ineligible after close of nominations and before close of voting.
- Optimal design of voting material to indicate its official nature and prevent it being treated as junk mail, increase the number of correctly completed declaration envelopes, and increase the number of valid votes.
- The effect of the current timeframes, including those between the close of nominations and the issuing of ballot packs, and between the issuing of ballot packs and the close of voting, and whether there should be a reduction in the time allowed to lodge a postal vote.
- Closing voting at 12.00 noon, not 5.00, as for supplementary elections.
- The rate of, and reasons for, informal voting.
- Powers to require a retraction in case of misleading electoral material.
- Whether additional offence provisions or enforcement powers are required to deal with aspects of candidates' conduct during campaigns.
- Allowing for bulk exclusions in the counting process for single vacancy contests.
- Whether a free advice service should be provided to candidates querying issues regarding the conduct of the election on, and after, polling day.
- The clarity of provisions and procedures regarding access to a recount.
- In relation to the results advice to CEO's, replacing "immediately" with "as soon as practicable", to allow for recount provisions.
- Form and timing of candidates' campaign donations returns, and the period for which returns, and records relating to returns, must be retained.
- Logistical problems anticipated in dealing with the certification of around 50 council reviews of representation by January 2010.

## **ATTACHMENT B - MEMBERSHIP OF THE REFERENCE GROUP**

<b>Officer</b>	<b>Agency</b>
John Hanlon	Office for State/Local Government Relations
Chris Russell	Local Government Association of South Australia
David Gully Leeanne Redpath	State Electoral Office
Melissa Stokes	Office for Women
Con Founten	Multicultural SA
Tony Crichton	Aboriginal Affairs and Reconciliation Division
Michelle Parker/ Bec Jaudzems	Office for Youth
Dr Bruce Visser	South Australia's Strategic Plan – Cabinet Office
Hon. Ian Hunter	MLC (Chair of the Reference Group)

## **ATTACHMENT C - LIST OF RESPONDENTS TO THE INTERIM REPORT**

	Response received	Name
1	22/10/07	<b><i>Diane Laube - Exec. Officer Eyre Peninsula LGA</i></b>
2	24/10/07	<b><i>David Saywell - Ratepayer - City of Playford</i></b>
3	30/10/07	<b><i>Marcus Beresford -Brownhill Creek Assn Inc.</i></b>
4	31/10/07	<b><i>Mike Thompson -</i></b>
5	1/11/07	<b><i>Ken Grundy -Mayor, Naracoorte Lucindale Council</i></b>
6	8/11/07	<b><i>Ken Rollond -Mayor, Holdfast Bay</i></b>
7	12/11/07	<b><i>DC of Grant</i></b>
8	12/11/07	<b><i>Cr Don Pfitzner RC of Goyder</i></b>
9	12/11/07	<b><i>Hon Bob Such MP</i></b>
10	19/11/07	<b><i>Laurie Gellon</i></b>
11	19/11/07	<b><i>DC of Streaky Bay</i></b>
12	19/11/07	<b><i>Nicola Chylinski</i></b>
13	20/11/07	<b><i>Patricia Booth</i></b>
14	20/11/07	<b><i>Naracoorte Lucindale Council</i></b>
15	21/11/07	<b><i>City of West Torrens</i></b>
16	22/11/07	<b><i>Frances Reay</i></b>
17	22/11/07	<b><i>Richard Thorne - Mayor, Unley</i></b>
18	22/11/07	<b><i>DC of Ceduna</i></b>
19	22/11/07	<b><i>The Barossa Council</i></b>
20	22/11/07	<b><i>Electoral Reform Society of SA</i></b>
21	23/11/07	<b><i>Peter Matthey - Mayor, RC of Goyder</i></b>
22	23/11/07	<b><i>Cr. Warren Mosey - RC of Goyder</i></b>
23	23/11/07	<b><i>Vincent Brown</i></b>
24	23/11/07	<b><i>City of Burnside</i></b>
25	23/11/07	<b><i>Mount Barker &amp; District Residents Association</i></b>
26	23/11/07	<b><i>Cr Alex Coates -City of Salisbury</i></b>
27	23/11/07	<b><i>Proportional Representation Society of Aust.</i></b>
28	24/11/07	<b><i>Cr Sandra Brown-City of Onkaparinga</i></b>
29	25/11/07	<b><i>Bob Marshall</i></b>
30	26/11/07	<b><i>Cr Peter Reilly Goyder RC</i></b>
31	26/11/07	<b><i>Mayor Max McHugh Flinders Ranges Council</i></b>
32	26/11/07	<b><i>City of Tea Tree Gully</i></b>
33	27/11/07	<b><i>Cr Jennie Boisvert City of Unley</i></b>
34	27/11/07	<b><i>City of Adelaide</i></b>
35	27/11/07	<b><i>DC of Mount Remarkable</i></b>
36	30/11/07	<b><i>City of Mount Gambier</i></b>
37	4/12/07	<b><i>SA Institute of Rate Administrators</i></b>
38	10/12/07	<b><i>City of Campbelltown</i></b>
39	21/12/07	<b><i>Local Government Association of SA</i></b>