



The Aboriginal Land Council of Tasmania

2005-06 Election Procedures & Guidelines

Including the election timetable

Contents

2005-06 election timetable.....	3
Enrolment now open	
The Aboriginal Land Council of Tasmania.....	4
Definitions of the 5 electoral areas	
The Aboriginal Land Council of Tasmania Electors Roll.....	5
The Preliminary Roll	
Who is entitled to be on the Roll	
Objections to transfer from the Preliminary Roll to the Roll	
Conduct of the election	7
How to stand as a candidate for election	
Eligibility to stand	
How to vote	
How votes are counted	
Declaration of the result	
Term of office	
Filling a casual vacancy	
Attachment 1 — Guidelines in relation to definition of ‘Aboriginal person’	9
Section 3A – ‘Aboriginal person’	
• Aboriginal ancestry	
• Self-identification	
• Communal recognition	
Attachment 2 — Procedure for dealing with objections to enrolment	11
Electoral Commissioner’s Advisory Committee	

2005-06 election timetable

Advertise for enrolment	Saturday 20 August 2005
Preliminary Roll closes	5 pm Monday 26 Sept 2005
Advertise Preliminary Roll may be inspected	Wednesday 28 Sept 2005
Close of objections to enrolments	5 pm Thursday 27 Oct 2005
Objections accepted or rejected by	Friday 25 November 2005
Advertise for nominations	Saturday 31 December 2005
Close of nominations	12 noon Friday 10 Feb 2006
Ballot papers posted to electors	Monday 20 February 2006
Close of ballot	10 am Tuesday 7 March 2006

Enrolment now open

Eligible persons are invited to lodge an application for enrolment on the Aboriginal Land Council of Tasmania Electors Roll.

Enrolment forms are available from the office of the Tasmanian Electoral Commission at 70 Collins Street Hobart (GPO Box 300), by calling 1800 801 701 or on the web at www.electoral.tas.gov.au.

The Aboriginal Land Council of Tasmania

The *Aboriginal Lands Act 1995* (the Act) provides for the election of the Aboriginal Land Council of Tasmania (ALCT) to hold and manage Aboriginal land on behalf of the Aboriginal people of Tasmania.

The 2005-06 ALCT election will be conducted by the Electoral Commissioner, under the provisions of the Act, as amended in July 2005.

The procedures to elect the Council are outlined in this booklet.

The ALCT comprises 8 members, elected for a 3 year term, representing 5 electoral areas, as follows—

Electoral Area	Number of Members
South region	2
North region	2
North-West region	2
Cape Barren Island group	1
Flinders Island group	1

Definitions of the 5 electoral areas

South region—means that part of the State comprising the cities of Hobart, Clarence and Glenorchy and the municipal areas of Brighton, Central Highlands, Derwent Valley, Glamorgan-Spring Bay, Huon Valley, Kingborough, Sorell, Southern Midlands and Tasman.

North region—means that part of the State comprising the city of Launceston and the municipal areas of Break O'Day, Dorset, George Town, Meander Valley, Northern Midlands and West Tamar.

North-West region—means that part of the State comprising the cities of Burnie and Devonport and the municipal areas of Central Coast, Circular Head, Kentish, King Island, Latrobe, Waratah-Wynyard and West Coast.

Cape Barren Island group—means Cape Barren Island, Long Island, Preservation Island, Passage Island, Forsyth Island, Clarke Island, Badger Island and Mount Chappell Island.

Flinders Island group—means Flinders Island and all islands, except Long Island, Badger Island and Mount Chappell Island, to the north of Cape Barren Island in the Flinders municipal area.

The Aboriginal Land Council of Tasmania Electors Roll

The Act requires the Electoral Commissioner to prepare and maintain an ALCT Electors Roll. To vote or to stand for election to the ALCT, a person must have their name entered on this Roll.

The *Aboriginal Lands Amendment Act (No.2) 2005* recently amended the Act to provide for the ALCT Electors Roll to become a continuing roll, rather than a roll that is created for the purposes of each ALCT election. On commencement of this amending Act on 21 July 2005, the Electoral Commissioner began preparation of the Roll.

In the first instance, under section 8(2A) of the Act the Roll is to comprise the names of those persons who were entitled to vote at the election of members of the ALCT in 2001, and is to be constituted from the material from which the Roll for that election was constituted.

The Act provides for a procedure whereby names may be added to the Roll.

The Act also provides for a procedure whereby the address of a person on the ALCT Electors Roll may be changed if the person has moved. Change of address forms are available from the office of the Tasmanian Electoral Commission.

Further, a person can be removed from, or reinstated to, the Roll on request and the Electoral Commissioner may remove a person from the Roll if they no longer live in the electoral area.

The Preliminary Roll

The procedure for adding names to the ALCT Electors Roll involves the names of applicants being placed on a Preliminary Roll. Following an objection and appeal process (see page 6), the names of successful applicants are then transferred from the Preliminary Roll to the Roll.

A notice calling for enrolment on the Preliminary Roll, and stating the closing date, will be advertised in the three daily newspapers, in the *Tasmanian Government Gazette*, and by circular to Aboriginal groups. Any Aboriginal groups wishing to be included on the mailing list should notify the Electoral Commissioner of their name and contact details.

Persons wishing to be included on the Preliminary Roll for the 2005-06 election, must lodge an enrolment form with the Electoral Commissioner by the advertised closing time – see the timetable on page 3. An enrolment form may be lodged any time after 21 July 2005.

Who is entitled to be on the Roll

To be entitled to have his or her name entered on the Roll, a person must—

- be an Aboriginal person within the meaning of the Act; and
- live in the electoral area for which they wish to be enrolled; and
- be at least 18 years of age.

Definition of Aboriginal person

The Act defines 'Aboriginal person' in section 3A—

“(1) An Aboriginal person is a person who satisfies all of the following requirements:

- (a) Aboriginal ancestry;
- (b) self-identification as an Aboriginal person;
- (c) communal recognition by members of the Aboriginal community.

(2) The onus of proving that a person satisfies the requirements referred to in subsection (1) lies on that person.”

Section 9(3) of the Act requires the Electoral Commissioner to prepare guidelines concerning the requirements set out in section 3A of the Act (see above).

These guidelines are in Attachment 1 at the end of this booklet.

Age & residency

The age and residency requirements are satisfied if a person is already on the State Electoral Roll for the electoral area in which they wish to be enrolled on the ALCT Electors Roll. Otherwise, a person applying to enrol needs to satisfy the Electoral Commissioner with proof of name and address – for example, a copy of driver's licence, phone or power bill.

Objections to transfer from the Preliminary Roll to the Roll

Enrolment on the Preliminary Roll closes at least 60 days prior to calling candidate nominations for the election.

A notice will be published in daily newspapers—

- stating that the Preliminary Roll has closed and is available for inspection; and
- listing the times and places at which it may be inspected; and
- setting out the right to lodge an objection.

Any person may object to the transfer of the name of a person from the Preliminary Roll to the Roll, but only on the ground that the person is not an Aboriginal person. Objections must be lodged within 28 days of the notice being published.

The Electoral Commissioner will consider any submissions and advice, and make a decision to accept or reject the objection. The procedure for dealing with objections is outlined in Attachment 2 at the end of this booklet.

Under section 10(7) appeals against a decision of the Electoral Commissioner may be lodged with the Supreme Court “...on the ground that procedures that are required by law to be observed relating to the making of the decision have not been observed.”

Conduct of the election

The Electoral Commissioner will appoint a Returning Officer to conduct the election for each group or region, under his supervision, and will approve all forms and procedures. The 2005-06 election timetable appears at the beginning of this booklet.

How to stand as a candidate for election

Nominations will be called for by advertisements in the 'Advocate', 'Examiner' and 'Mercury' newspapers, in the *Gazette* and by circular to Aboriginal groups. Nomination forms will be available from the office of the Tasmanian Electoral Commission and Aboriginal groups.

Completed nomination forms must be lodged with the Returning Officer by the date set for the close of nominations – see the timetable on page 3.

Eligibility to stand

Any person whose name is on the ALCT Electors Roll for an address within a region or group is eligible to stand as a member to represent that region or group. The 5 regions and groups are detailed earlier in this booklet.

How to vote

If a ballot is required, that is there are more candidates than positions to be filled, ballot papers will be sent by post to all persons on the Roll for that region or group, at the postal address given on their enrolment form.

Each elector will receive a postal ballot pack containing—

- **voting instructions**

Electors will be provided with clear instructions on the materials provided to them and how to make their vote count.

- **candidate statements**

Candidates are invited to provide a short written statement, which may include—

- age, personal and family information;
- qualifications and experience;
- personal philosophy;
- goals to pursue if elected;
- any other relevant information.

Candidate statements are limited to a maximum of 150 words.

- **ballot paper**

The ballot paper will list the names of all candidates standing for election in that region or group. The candidates' names will be printed in a random order, as determined by the Electoral Commissioner.

- **security of the ballot**

Ballot papers will be returned in envelopes similar to those used in local government elections. These are designed to allow the voter to authenticate the vote with his or her signature, while ensuring its secrecy.

- **reply paid envelope**

An addressed, reply paid envelope will be provided for the return of the ballot paper at no cost to the elector.

All completed ballot papers must be received by the Returning Officer before the time set for the close of the ballot. See timetable on page 3.

How votes are counted

Votes will be counted in the same manner as Tasmanian local government elections.

Where there is only one member to be elected votes cast will be counted by the simple preferential system.

Where more than one member is to be elected, votes will be counted by the Hare-Clark system of proportional representation.

Declaration of the result

After all the votes are counted, the Electoral Commissioner will declare the names of the elected members for each Electoral Area (region or group) of the Council and issue Certificates of Election. These certificates will be published in the Tasmanian Government *Gazette* and the three daily newspapers circulating in the State.

The outcome of an election may be disputed in the Supreme Court within 30 days of the issuing of the certificate.

Term of office

The term of office of a member of the Council will normally be 3 years, starting on the day of issue of the certificate of election and finishing on the day of the issue of the next certificate of election.

Filling a casual vacancy

If a vacancy on the Council occurs, for example due to the resignation of a member, the vacancy is filled by a recount of the votes that were cast to elect the vacating member. Candidates who were not elected are eligible to be included in the recount.

If no eligible candidates consent to be included in a recount, then a full by-election is conducted to fill the vacant position.

If the vacancy occurs more than 2 years and 6 months after the previous election:

- a recount will only occur if there are not sufficient remaining members to constitute a quorum of the Council;
- a by-election will not be conducted due to the proximity to the next election.

Attachment 1

Guidelines in relation to definition of ‘Aboriginal person’

In order to be eligible for enrolment on the Aboriginal Land Council of Tasmania Electors Roll, a person must, in addition to satisfying age and residency requirements, be an ‘Aboriginal person’ as defined in section 3A of the *Aboriginal Lands Act 1995* (the Act).

Section 9(3) of the Act requires the Electoral Commissioner to prepare guidelines concerning the requirements set out in section 3A.

The following guidelines have been developed with regard to the decisions of the Federal Court of Australia in *Gibbs v Capewell* (1995) 128 ALR 577 and *Shaw v Wolf* (1998) 163 ALR 205.

Section 3A – ‘Aboriginal person’

A person is an Aboriginal person within the meaning of section 3A of the Act if he or she satisfies all of the following requirements—

- Aboriginal ancestry; and
- self-identification as an Aboriginal person; and
- communal recognition by members of the Aboriginal community

Note that, under section 3A(2) of the Act, the onus of proving that a person satisfies the above requirements lies on that person.

Please read the specific guidelines below for each of these requirements.

Aboriginal ancestry

A person should be able to provide authentic evidence that shows a direct line of ancestry linked back to traditional Aboriginal society.

Documentary evidence is generally required—in the form of a verifiable family tree, or archival or historical documentation that links a person to a traditional family or person.

Where documentary evidence is not available, other forms of evidence (for example photographs, family folklore or personal statements) can be considered, however these will need some form of verification and where possible will be checked against available archival information. It should be noted that these forms of evidence alone might not provide conclusive evidence of ancestry.

Where a person is claiming their Aboriginal ancestry from outside Tasmania, proof of descent must be available from the other area of Australia concerned.

Self-identification

In addition to showing Aboriginal ancestry a person must generally be able to demonstrate genuine self-identification as an Aboriginal person.

Communal recognition

In addition to showing Aboriginal ancestry and genuine self-identification as an Aboriginal person, a person must generally be able to demonstrate communal recognition or acceptance by members of the Aboriginal community.

This means that a person must be known by other Aboriginal people in the local community in which he or she lives or has lived and be able to demonstrate their involvement with that local community.

The 'local community' in this context can be taken as a geographic area in which there are family groups and extended family groups who have associated with each other and recognised each other's Aboriginality. In some situations the 'local community' may have statewide coverage.

In practical terms it will generally be required—

- For a person to obtain three signatures from recognised members of the Aboriginal community; and
- That these three community members be able to acknowledge that person's or family's identification as Aboriginal within that community; and
- That the signatories not be from the immediate family group of the person seeking confirmation and be from family groups who are accepted members of the broader Aboriginal community.

It would not usually be sufficient for confirmation of communal recognition to come from an Aboriginal organisation alone, without separate support from local families and community members. However evidence of communal recognition may be considered from one or more Aboriginal organisations alone, if the basis of the evidence can be properly demonstrated.

Where a person is claiming their Aboriginal ancestry from outside Tasmania, proof of communal recognition may come from within or outside Tasmania.

Attachment 2

Procedure for dealing with objections to enrolment

The Electoral Commissioner will establish an advisory committee (see below) to advise as to the appropriate determination of objections on the ground that a person is not an Aboriginal person.

When an objection is received, the person to whom it relates will immediately be invited by the Electoral Commissioner to make submissions in relation to the matter within a stipulated time.

The objection, and any submissions received from the applicant for enrolment, will then be referred to the advisory committee, which will promptly consider the matter and advise the Electoral Commissioner that the committee—

- is satisfied that the person is an Aboriginal person within the meaning of the Act; or
- is not satisfied that the person is an Aboriginal person within the meaning of the Act; or
- believes that there is insufficient information to make a decision, in which case—
 - the Electoral Commissioner will write to the person whose enrolment is objected to requesting further evidence of their eligibility. The request will indicate the sort of evidence required and the date by which it must be provided; and
 - if more evidence is provided, the Electoral Commissioner will refer it to the committee, which will further consider the person's eligibility on the basis of the additional information and provide further advice to the Electoral Commissioner.

The Electoral Commissioner will consider the advice of the committee and any other advice obtained, when making his decision to accept or reject an objection.

The Electoral Commissioner will give notice of his decision by writing to both the person applying for enrolment and the objector. This notice will also advise of the appeal rights available under section 10(7) of the *Aboriginal Lands Act 1995*.

Electoral Commissioner's Advisory Committee

The advisory committee will consist of 8 Aboriginal people and will include—

- a representative of the Office of Aboriginal Affairs which is responsible for the administration of the *Aboriginal Lands Act 1995*.
- persons who are knowledgeable of and widely accepted as being of high-standing within the Aboriginal community.
- persons having particular expertise in the fields of Aboriginal genealogy and history.
- persons whose names appear on the Aboriginal Land Council of Tasmania Electors Roll

Persons wishing to be considered for inclusion on the committee are invited to apply to the Electoral Commissioner. An application form is available from the office of the Tasmanian Electoral Commission.