



The
Aboriginal Land
Council of Tasmania

Enrolment and election booklet 2020-21

Includes:

Procedures and guidelines

Contents

| | |
|--|-------------------|
| THE ABORIGINAL LAND COUNCIL OF TASMANIA (ALCT) | 3 |
| Definitions of the 5 electoral areas | |
| THE ALCT ELECTORS ROLL | 4 |
| The Preliminary Roll | |
| Who is entitled to be on the Roll | |
| Objections to transfer from the Preliminary Roll to the Roll | |
| GUIDELINES CONCERNING THE REQUIREMENTS SET OUT IN SECTION 3A OF THE ABORIGINAL LANDS ACT 1995 | 6 |
| Aboriginal ancestry | |
| Self-identification | |
| Communal recognition | |
| PROCEDURE FOR DEALING WITH OBJECTIONS TO ENROLMENT | 8 |
| ELECTORAL COMMISSIONER’S REVIEW COMMITTEE | 9 |
| CONDUCT OF ALCT ELECTIONS | 10 |
| 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 | |
| 2020 - 21 ALCT ELECTION TIMETABLE | BACK COVER |

The Aboriginal Land Council of Tasmania

The *Aboriginal Lands Act 1995* (the *Act*) provides for the election of members of the Aboriginal Land Council of Tasmania (ALCT). ALCT holds and manages Aboriginal land on behalf of the Aboriginal people of Tasmania.

The ALCT comprises 8 members, elected for a term of approximately 3 years, 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 |

The 2020-21 ALCT election will be conducted by the Electoral Commissioner, under the provisions of the *Act*. The procedures to elect the Council are outlined in this booklet.

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 ALCT Electors Roll

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

Following amendments to the *Act* in 2005, the Roll is effectively a continuing roll, rather than a roll that is created for the purposes of each ALCT election.

The *Act* provides for a procedure whereby persons may apply to have their names added to the Roll prior to each election (see below).

The Roll currently comprises the names of those persons who were eligible to vote in the last ALCT elections held in 2018.

The *Act* also provides for a procedure whereby the address of a person on the 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.

Prior to each election, the Electoral Commissioner will write to all persons currently on the Roll to check their address and other details are still correct.

The Preliminary Roll

The procedure for adding names to the Roll involves the names of applicants being placed on a Preliminary Roll. Following an objection and appeal process (see page 8), the names of successful applicants are then transferred from the Preliminary Roll to the Roll.

A notice calling for applications for enrolment on the Roll, and stating the closing date, will be advertised in the three daily newspapers, in the Tasmanian Government *Gazette* (the *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.

Enrolments will be sought by advertisement on 25 July 2020 and persons wishing to be added to the Roll for the 2020–21 election must lodge an enrolment form with the Electoral Commissioner by 5pm on Thursday 1 October 2020.

Who is entitled to be on the Roll

To be entitled to have their 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 on page 6 and 7 in 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, age and address – for example, a copy of his or her driver’s licence.

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 and the *Gazette*:

- stating that the Preliminary Roll 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 before 5pm on Monday 9 November 2020.

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 on page 8 in 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.” Only a person who has lodged an objection, or in relation to whom an objection is lodged, and in either case, is aggrieved by the determination, is entitled to appeal to the Court.

Guidelines concerning the requirements set out in section 3A of the *Aboriginal Lands Act 1995*

In order to be eligible for enrolment on the ALCT 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, and the Tasmanian Supreme Court in *Bleathman v Taylor* [2007] TASSC 82. These guidelines do not purport to set out mandatory or inflexible requirements regarding the evidence which may be used to satisfy the Electoral Commissioner that a person is an Aboriginal person but are given for guidance only.

Definition of '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.

Please note the eligibility requirements in relation to enrolling on the ALCT Electors Roll are as provided in the *Aboriginal Lands Act 1995*. These requirements are different from the approach for determining eligibility for Aboriginal and Torres Strait Islander programs and services provided by the State government.

Aboriginal ancestry

A person is encouraged to provide authentic evidence that shows a direct line of ancestry linked back to traditional Aboriginal society.

This would usually be documentary evidence 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.

Upon receipt of an application the Electoral Commissioner is entitled to seek further advice from the Review Committee (see pages 8 & 9), archivists or other sources, particularly where little, or no supporting documentation is provided, but also in other cases.

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

NOTE: Family tree information not necessarily disclosed: sensitive enrolment records - The Electoral Commissioner is not required to divulge the existence or contents of any record provided to him which he believes in good faith to be of a personally sensitive or confidential nature.

Self-identification

In addition to showing Aboriginal ancestry a person must be able to demonstrate genuine self-identification as an Aboriginal person. This requirement will generally be satisfied by applicants for enrolment signing a declaration to this effect.

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 state-wide coverage.

In practical terms it will assist—

- 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.

Procedure for dealing with objections to enrolment

The Electoral Commissioner will establish a Review Committee (see next page) to advise in connection with the appropriate determination of objections on the ground that a person is not an Aboriginal person. The Electoral Commissioner is entitled to request advice from the members of the Review Committee or any person who the Electoral Commissioner's considers necessary, to enable an objection to be properly considered.

When an objection is received:

- The Electoral Commissioner will, as soon as practicable, send a letter to the person to whom it relates advising that an objection has been received and inviting him or her to make a submission in relation to his or her Aboriginality by a specified date. A copy of the "guidelines" will be included to indicate the type of material that may help in having the objection rejected.
- The Electoral Commissioner will, as soon as practicable, send a letter to the person lodging the objection advising that the objection has been received and inviting him or her to make any further submission in relation to the objection by a specified date.

Both letters will include advice that the names of the Review Committee members will be available on the Tasmanian Electoral Commission website www.tec.tas.gov.au.

The objection, and any submissions received from the applicant for enrolment, may be referred by the Electoral Commissioner to the Review Committee, which will advise the Electoral Commissioner whether 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.

Before determining an objection, the Electoral Commissioner will consider the advice of the Committee and any other advice obtained.

The Electoral Commissioner will write to both the person applying for enrolment and the objector to acquaint them with the source and substance of the materials and information (except sensitive enrolment records) on which he intends to base his decision. This notice will also stipulate a period (usually 7 days) during which further submissions may be made.

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

Electoral Commissioner's Review Committee

The Review Committee will consist of up to 8 Aboriginal people whose names appear on the Aboriginal Land Council of Tasmania Electors Roll and will include:

- 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

The list of members of the Review Committee will be available on the Tasmanian Electoral Commission website www.tec.tas.gov.au.

Advice to the Electoral Commissioner

Section 10(4) of the Act provides that the Electoral Commissioner may request advice of such persons as the Electoral Commissioner considers necessary.

The State Archivist may be asked to provide advice to the Electoral Commissioner in relation to relevant material within State archives.

A representative of the Office of Aboriginal Affairs, which is responsible for the administration of the *Aboriginal Lands Act 1995*, may also be requested to provide advice to the Electoral Commissioner.

Conduct of ALCT elections

The Electoral Commissioner will appoint a Returning Officer to conduct the election for each electoral area, under his supervision, and will approve all forms and procedures. The 2020-21 election timetable appears on the back cover 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 12 noon Friday 21 May 2021.

Eligibility to stand

Any person whose name is on the Roll for an address within a region or group is eligible to stand as a member to represent that electoral area. The 5 regions and groups are detailed on page 3 of 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.

- **A 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.

- **A ballot paper envelope**

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.

- **A 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 10 am Tuesday 22 June 2021.

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 *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 publication in the *Gazette* of the Certificate of Election.

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 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.

Aboriginal Land Council of Tasmania (ALCT) 2020-21 election timetable

| | |
|---|------------------------------|
| Advertise for enrolment | Saturday 25 July 2020 |
| Preliminary Roll closes | 5 pm Thursday 1 October 2020 |
| Advertise Preliminary Roll may be inspected | Saturday 10 October 2020 |
| Preliminary Roll may be inspected from | Monday 12 October 2020 |
| Close of objections to enrolments | 5 pm Monday 9 November 2020 |
| Notices setting out information and material to be the basis of decision posted | Friday 4 December 2020 |
| Notices of decision to accept or reject objections posted on or after | Tuesday 15 December 2020 |
| Advertise for nominations | Saturday 13 March 2021 |
| Close of nominations | 12 noon Friday 21 May 2021 |
| Ballot papers posted to electors | Monday 31 May 2021 |
| Close of ballot | 10 am Tuesday 22 June 2021 |

Enrolment

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 Level 3, 169 Main Road, Moonah, by calling 1800 801 701 or on the web at www.tec.tas.gov.au.