



**LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY**  
13<sup>th</sup> Assembly  
**SOCIAL POLICY SCRUTINY COMMITTEE**

**Public Hearing Transcript**  
**Electoral Legislation Amendment Bill 2018**

2.00 pm, Wednesday 20 February 2019  
Litchfield Room, Level 3, Parliament House, Darwin

**Members:** Ms Ngaree Ah Kit MLA, Chair, Member for Karama  
Mrs Robyn Lambley MLA, Deputy Chair, Member for Araluen  
Mrs Lia Finocchiaro MLA, Member for Spillett  
Ms Sandra Nelson MLA, Member for Katherine

**Witnesses:** Iain Loganathan: Northern Territory Electoral Commissioner  
Maria Mohr: Deputy Chief Executive Officer, Department of the Chief Minister  
Jean Doherty: Executive Director Federal Policy and Strategic Coordination, Department of the Chief Minister  
Genevieve Mogridge: Director Federal Policy and Strategic Coordination, Department of the Chief Minister  
Tom McCrie: Principal Legal Policy Officer, Department of the Chief Minister  
Gerry Wood MLA: Member for Nelson

## ELECTORAL LEGISLATION AMENDMENT BILL 2018

### Northern Territory Electoral Commission

**Madam CHAIR:** Good afternoon, everyone, thank you for joining us. I am Ngaree Ah Kit, the Member for Karama and Chair of the Social Policy Scrutiny Committee. On behalf of the committee I welcome everyone to this public briefing into the Electoral Legislation Amendment Bill 2018. I acknowledge my fellow committee members in attendance today: Deputy Chair, Robyn Lambley, Member for Araluen; Sandra Nelson, Member for Katherine on the phone; and Lia Finocchiaro, Member for Spillett.

I welcome to the table to give evidence to the committee Mr Iain Loganathan, Electoral Commissioner. Thank you for coming before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing and is being webcast through the Assembly's website. A transcript will be made for use by the committee and may be put on the committee's website.

If, at any time during the hearing, you are concerned that what you will say should not be made public, you may ask that the committee go into a closed session and take your evidence in private. I will ask you to state your name for the record and the capacity in which you appear. I will then invite you to make a brief opening statement before proceeding to the committee's questions. Could you please state your name and the capacity in which you are appearing this afternoon?

**Mr LOGANATHAN:** Iain Loganathan, Northern Territory Electoral Commissioner.

**Madam CHAIR:** Thank you, Mr Loganathan. Would you like to make an opening statement?

**Mr LOGANATHAN:** Yes, I would. I start by saying the Electoral Commission supports this bill. We support the change back to preferential voting. As stated in our submission, we think that it is in the interests of Territory electors to have a common vote marking system for all three levels of government. In our education campaign to electors, there is a common message that they are required to complete the ballot from number one until all boxes are complete, in order of their preference.

We are also supportive of the change to include a specific reference in regard to the voter's intention when determining whether ballots are formal or informal. This is standard practice that is used by all Electoral Commissions in Australia. The Northern Territory is the only jurisdiction that does not have a specific reference to take into account the voter's intention in the legislation. We think that is a positive move to have that reference included.

In reality, that will not really make a change in determining formality because Electoral Commissions, out of convention, have always looked at the voter's intention in determining formality. It is better governance to have that specifically stated in the legislation.

We are also supportive of reducing the prohibition boundary from 100 metres to 10 metres for early voting centres and remote mobile polling. For early voting centres, we are keen to have our voting centres where it is convenient to electors, in shopping centres. Those shopping centres often have electorate offices in them.

The 100 metre boundary was extremely problematic, as it is important to have a level playing field for all candidates. Reducing it to 10 metres removes that issue relating to electorate officers for us to administer. I also note that the majority of shopping centres in the Northern Territory do not allow party workers to scrutineer in their premises for their own reasons.

We are also supportive of removing the 100 metre boundary for remote mobile polling. We stated, when this was proposed, that this was going to be extremely problematic to administer. We are not physically marking the boundary of 100 metres and it caused a lot of dispute and disquiet amongst campaign workers in 2016. We want staff to be in the polling place assisting voters, not administering boundaries of 100 metres away. We think that is a positive move and support it.

Whilst I have made four suggestions in our submission, the main issue I want to discuss relates to the 100 metre boundary for election day voting centres, specifically as they relate to schools. Can I pass that up to you? I have examples of three schools—two from Darwin and one from Alice Springs.

The main issue we have is, as I stated, as with remote mobile polling, we do not physically mark the 100 metres, which is impractical to do. We used Google Maps and printed these maps out. We had these maps at the polling place so it was clear where the boundaries were. They were also on our website. Links to maps were, emailed to all candidates so they were clear in relation to how it worked.

If you look at the top one in Wanguri, you can see that it includes a number of houses. That was problematic to administer. The fact that this boundary can now be reduced between 10 metres and 100 metres means we will not have to face that issue in the future, and those houses would no longer be within the prohibition zone.

What is a little more problematic is Wanguri is a strange example because the school has massive grounds. But the preference for the Electoral Commission would be to have the whole school excluded. That would mean that, at times, that would be over 100 metres. The legislation, as it is written at the moment, does not give us the discretion to go over 100 metres.

If you look at the next example of Parap Primary, you will see that the reason the 100 metre boundary was drawn in that manner to specifically include the car park in the 100 metre boundary. It is very clear, in terms of feedback from electors they do not like the gauntlets on Election Day. They do not like being harassed, so we want to make it so that people could park their car, vote and leave and not have to interact with campaign workers.

The fact that we did that meant that—in this boundary here we have only included half the school, because that is the 100 metre boundary.

This approach meant we debated with some campaign workers if they are on the oval, whether they are in that 100 metres or whether they are outside the 100 metres—it just becomes, quite frankly, a bit of a nonsense in to how it is administered.

Our preference would be to say—the whole of Parap school is excluded, so do not go in to the school because if you do you will be breaching the law and the determination by the Electoral Commission. The same example in terms of Braitling—we would just like to basically exclude the whole school and make it very clear to us and to the party workers, candidates, parties and the general public that that is the case.

Even with these changes there are other issues, and I do not particularly know how you stop this. With the boundaries that we had, we had over exuberant party workers trying to stop cars as they are just about to enter in to the 100 metre zone and try to give them how to vote material. We certainly had a few calls and emails basically saying this is going to end badly because it will lead to an accident.

I do not know how we stop that. I see that the draft legislation has a code of conduct, and we will certainly be including such behaviour. It is just common sense and common courtesy. Sometimes it is not followed. We had the same issues in terms of quite a few complaints from people who lived across from schools, and the schools were excluded, and people ringing us up and saying, why are all these people on my lawn—I want them to leave. They are a nuisance to us and to cars that are driving past. That is another, I suppose, practical consideration.

I do not come here with a solution, but we certainly will include them in the code of conduct and we will talk to the parties and to the candidates. It is really for people to have some common decency and treat the general public, especially people who reside near schools, to respect their privacy—they are stepping on private property when they are on their front lawns.

The advice that we actually gave to those people, because we said as the Electoral Commission we do not have any authority to tell those people to move, but you are well within your rights to contact the police and tell them that people are trespassing on their property.

In relation to the exclusion zone within the 100 metres for candidates to have place to hand out how to vote cards, we do support that. We think that this is a a practical measure, particularly with change back to full preferential voting where how to vote cards certainly have role to play in assisting electors

to cast a formal vote . We think voters should have access to how to vote cards but have the choice to acquire this information.

I have written a few points in our submission saying that we probably need a bit of clarification in regard to how this is going to operate. Specifically, what can campaign workers do within the exclusion area—can they wear campaign T-shirts? Can they have core flutes? Are they allowed to have jingles playing?

A lot of this stuff is common sense and we certainly would try to incorporate that within our code of conduct, but I thought this would be a good forum to actually start that discussion, in relation to what is reasonable within that area.

The expectation of the Electoral Commission is that the intent is that it is just a place where people can collect how-to-vote cards. If you have a voter who is walking through and they want to collect a how-to-vote card they would go to the party worker who is offering the how-to-vote card they want, collect it and enter the polling place and vote. It is not an area where people would be screaming and yelling at people and asking them to come and collect their how-to-vote cards. It would be a little more organised and less carnival-like.

That would be the intention when we draft the code of conduct. Specifically we have given the example about voting centres with multiple points of entry. Parap is one of the really good examples where you will have voters who come from different angles to get to that polling place.

Our reading of the act is that there is still only one exclusion zone. We would try to have that exclusion zone in an area where it is convenient for electors to do so should they choose to access how-to-vote cards. We are also seeking clarification that the exclusion zone is only for campaign workers for candidates and it does not allow third-party campaigners to be within that 100 metre zone and campaign.

The only other point I will make is in relation to the submission by the Member for Nelson in regard to whether we will make the exclusion zone 10 metres if we have the discretion to have it between 10 metres and 100 metres. That is not the intention of the Electoral Commission. We think 100 metres is good, but if the boundary to the school fence is 60 metres, it probably makes sense to have 60 metres there. We would be erring to go as close to 100 metres as was practical in the instances of that polling place.

**Madam CHAIR:** Thank you very much. I will now open it up to the committee for any questions they may have.

**Mrs FINOCCHIARO:** Thank you very much for coming and appearing before us and raising some of the concerns. From my perspective—and you mentioned it in your letter—it is the balance for the right to campaign, the right to be able to vote and not be bothered or interrupted, of course the impact on Electoral Commission staff's ability to enforce whatever the rules might be, and their ability to do what they have to do, which is be inside the polling centre versus being out arbitrating various rules that government puts in place or the parliament legislates. That is the perspective I am coming from.

The Electoral Commission is looking for greater flexibility about the 100 metre rule, both less than 100 metres, but also in excess of ...

**Mr LOGANATHAN:** That is correct, yes.

**Mrs FINOCCHIARO:** ... so that you could, as you said, engulf an entire school boundary, take it up to the fence of a house, et cetera. If that was to be the law that was passed, would that have to come with guidelines? I am trying to work out how much goes into the law and how much is at the discretion of the Electoral Commission.

**Mr LOGANATHAN:** Your question is a legitimate question because Electoral Commissions should be very careful when it exercises discretion because, ultimately, it can cause problems if the act is drafted so it has open-ended discretion. We could make it five kilometres and that, surely, is not the intention of parliament.

We would be looking to have some kind of parameters on exercising that discretion so that it is approximately 100 metres or a boundary which is deemed appropriate to exclude a defined building

area. That would give us the opportunity to exclude the whole school, which is really what we are looking for. It is not problematic in any other instance except schools. We, obviously, use a number of schools as election day voting centres.

**Mrs LAMBLEY:** One of the points made in a discussion we had within the committee was the fact that the Electoral Commission having discretion, might provide even more problems.

**Mr LOGANATHAN:** It potentially could provide problems, but the question is, how do we communicate with the stakeholders, with the parties and with the candidates? Our intention would be that we know we have a fixed date election. We book the polling places months in advance.

We provide a map to the officer in charge of the polling place in relation to how they should set up the polling place within that area. We certainly would be making a determination in relation to where the boundaries should be and where the exclusion areas should be, and they should be available on our website. Once we know who the candidates are we would specifically providing them that information.

It is about informing people why we propose what to do, and for us to exercise common sense when we do so and when we do not—then to have that debate with other stakeholders if they have a different view, in terms of what would be appropriate. Just as a general principle, as I said, is that people should be able to go to the polling place and if they choose not to interact with a party worker then they have that option, but should they choose to collect a how to vote card then that is freely available from them.

It is not my intention to have the exclusion zone somewhere at 100 metres where it is going to be very difficult for voters to collect that material. Our intention would be to have that exclusion zone somewhere close to the entrance so that it is convenient and practical for voters to collect that the how to vote material.

**Mrs FINOCCHIARO:** On the proposed exclusion zone the bill says it would allow three campaign workers per candidate for that prescribed area—I guess it is really important for the intention of the bill to be very clear for the Electoral Commission because, for example—and not to verbal you.

I think you said earlier it would be a place where you envisage people would be able to come and get how to vote cards rather than like a full blown carnival, to use your words, within that exclusion area, but that is not actually what can and cannot be done in that exclusion zone—is not set out in the act. Is that correct?

**Mr LOGANATHAN:** That is correct. The understanding is that there is going to be a code of conduct—and that code of conduct will be produced—and we would have to liaise with the parties and other stakeholders in relation to what occurs, but they just want to make it very clear here that our intention is—the main purpose of it would be for people to go and collect how to vote cards.

There has to be some practicalities in terms of how we administer this. Personally, if people are wearing campaign T-shirts that probably makes sense because at least I will know that is three from one side and three from another side and Independent candidates and other parties.

**Mrs LAMBLEY:** Is that not going back to what the old system was? If you have effectively campaigning happening in the exclusion zone—was it not the intent of what happened in 2016—was to basically stop that? I do not know. That was my understanding.

**Mr LOGANATHAN:** That was the case and it worked. The Electoral Commission's position with optional preferential voting. There was no real link towards how to vote cards and people voting formally. As long as someone put a one or even just a mark in one box, that was a formal vote.

If we move back to full preferential voting then there is more of a link towards how to vote cards, especially in the first election when the voting system changes back, I just voted one last time, I will just vote one again. That would be deemed an informal vote. Because of that link there is a place for an exclusion zone so voters can collect how to vote cards. If the optional preferential voting was retained the Commission would support having the 100 metres and have campaign workers outside that area.

But it is impractical to say to the parties, 'You have to be ...'—I should not use the work 'parties', I should say candidates—'... outside the 100 metre area to try to give people how-to-vote cards',

because, at places like Braiitling and Parap, you have voters come into the polling place from many different points.

**Mrs FINOCCHIARO:** Are there any other jurisdictions that do it differently? To pick up on what the Member for Araluen is saying, could that not be done away with by just having—I do not know—a table or flyer stand where candidates could then put how-to-votes and you could still have no campaigning within the area?

**Mr LOGANATHAN:** Member for Spillett, other jurisdictions do not do that. They all have six metres or 10 metres, with the exception of the ACT and Tasmania. But they use the Hare-Clark system with Robson rotation, so how-to-vote cards are not relevant.

We discussed the option in regard to having a table and how-to-vote material there. In practice, that is what we did at the early voting centres where the shopping centres did not allow it. We had a table and voters could access how to vote cards should they choose to.

I am open to that option, but there are some practical issues with that. What happens if someone runs out of how-to-vote material? What happens if a voter comes in and just grabs all the how-to-vote material of someone they do not support so there is no how-to-vote material there? It is not the job of ...

**Mrs FINOCCHIARO:** Who is responsible to restock it and notify?

**Mr LOGANATHAN:** Yes. Right. So, these are some of the problematic areas that do not make it as simple as that. In South Australia, they have the how-to-vote material in the booth—printed on the booth—so that ...

**Mrs LAMBLEY:** That works.

**Mrs FINOCCHIARO:** Then you are there and all of them are there.

**Mr LOGANATHAN:** And it is there, yes. It is an option, but it would be potentially confusing for some electors to try to identify which is the how-to-vote card they want to use. You will, basically, be walking in and it will be like *The Matrix*—all different numbers in different places. There is no perfect solution.

**Mrs LAMBLEY:** As a matter of interest, how many voters selected to fully preference in the last election?

**Mr LOGANATHAN:** I do not ...

**Mrs LAMBLEY:** Approximately.

**Mr LOGANATHAN:** I should know it off the top of my head. It is over 50%.

**Mrs LAMBLEY:** The assumption, going into the 2016 election, from my perspective, was that the onus was on people to get that information and take it to the polling booth themselves as to who they would preference, whose card they may choose to follow. As a candidate, that is the information I provided electors—or tried to. Is it not reasonable to expect that if there is no campaigning, essentially, outside polling booths, that candidates need to get that information out somehow—whether it is in the paper, letter boxes, online, or whatever?

**Mr LOGANATHAN:** Member for Araluen, it is what I said in my submission in protecting the rights of the voter and then giving the candidate reasonable access to be able to interact with the voter ...

**Mrs LAMBLEY:** On the day.

**Mr LOGANATHAN:** Yes, on the day. Traditionally, that has been at the election day voting centres. What is that balance?

**Mrs LAMBLEY:** Yes, what is fair?

**Mr LOGANATHAN:** Yes, what is fair? People would have different views. In what is proposed, I am comfortable with, as long as there are clear parameters in relation to how that operates. It cannot be

a distraction, it really has to be nothing more than a place where people can walk up, collect how-to-vote cards.

We are not looking for places where people will be trying to convince people to vote for this person or that person. Technically, it is an exclusion zone. We are only creating an exemption so that how-to-vote card material can be made available.

**Mrs LAMBLEY:** Each candidate would really only require one person to be within that exclusion zone to hand out that material?

**Madam CHAIR:** It could be a big swarm of people coming at you at once. You might need a couple.

**Mrs LAMBLEY:** To make it fair and equitable across all candidates.

**Mr LOGANATHAN:** Yes, that is something that is open to further discussion. Our suggestion was that it be two. Remember, most candidates would also have a scrutineer inside. We thought that people could possibly swap roles during the day. It would have to be more than one because if someone wants to go to the toilet or something like that ...

**Mrs LAMBLEY:** One person at a time, I am thinking.

**Mr LOGANATHAN:** Yes.

**Mrs LAMBLEY:** Yes, that is ...

**Mrs FINOCCHIARO:** The conduct is not written anywhere in the bill, so that would all have to be prescribed in the guidelines?

**Mr LOGANATHAN:** In a code of conduct.

**Mrs FINOCCHIARO:** In a code of conduct, yes. The code of conduct could not be generic, like, all candidates and supporters must behave themselves, or not scream or anything. It could not be generic, it would have to be quite prescriptive then?

**Mr LOGANATHAN:** Member for Spillett that is our intention. But you have codes of conduct in parliament, in schools and numerous places. Whether they are abided by and what are the repercussions if you do not abide by them, is probably the most important question.

In the Electoral Commission, we do not particularly want to be seen to be subscribing to something that we think is right. I do not think that is the correct approach. We would be canvassing political parties and other stakeholders in saying, 'This is what we propose', and seeking feedback. It has to work both ways.

**Madam CHAIR:** Mr Loganathan, the Electoral Commission already has existing powers under section 295 to manage disruptive behaviour, so a code of conduct would just go that step further to outline to, I guess us what we should or should not be doing, taking into consideration Territorians' needs to come in, do their business, access us if they need, but do it in that safe manner in that zone near the polling booth.

You guys, as the Electoral Commission, can continue to use the powers you have and adhere to the guidelines under the code of conduct. Is that how it would work?

**Mr LOGANATHAN:** Member for Karama, the reality is that is how it works. We give people a warning to say, 'We think you are crossing the line here'. If it gets to the point where someone is really disruptive to voters—our polling staff are not bodyguards, it is not the job of the OIC to forcibly remove people.

We tell them to contact us and we have a police contact on election days. We would get police to go there and remove that person—whether that be a party worker or a member of public who is creating a nuisance within the polling place.

**Madam CHAIR:** Thank you, Mr Loganathan. I realise we have gone over time by a couple of minutes. Thank you for appearing before us this afternoon.

**Mr LOGANATHAN:** Thank you.

**Mrs FINOCCHIARO:** Thank you.

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### Department of the Chief Minister

**Madam CHAIR:** Good afternoon everyone and thank you for joining us. I am Ngaree Ah Kit, Member for Karama and Chair of the Social Policy Scrutiny Committee.

On behalf of the committee I welcome everyone to this public hearing in to the Electoral Legislation Amendment Bill 2018. I also acknowledge my fellow committee members in attendance today, Deputy Chair, Robyn Lambley, Member for Araluen; Sandra Nelson, Member for Katherine—on the phone, and Lia Finocchiaro, Member for Spillet.

I welcome to the table to give evidence to the committee, Jean Doherty, Executive Director Federal Policy and Strategic Coordination, Department of the Chief Minister; Maria Mohr, Deputy Chief Executive Officer, Department of the Chief Minister; Tom McCrie, Principal Legal Policy Officer, Department of the Chief Minister; Genevieve Mogridge, Director Federal Policy and Strategic Coordination, Department of the Chief Minister.

Thank you for coming before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today. This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply.

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I will ask you to state your name for the record and the capacity in which you appear. I will then invite you to make a brief opening statement before proceeding to the committee's questions. Could you each please state your name and the capacity in which you appear today?

**Ms DOHERTY:** Jean Doherty, Executive Director Federal Policy and Strategic Coordination, Department of the Chief Minister.

**Ms MOHR:** Maria Mohr, Deputy Chief Executive Officer, Department of the Chief Minister.

**Mr McCRIE:** Tom McCrie, Principal Legal Policy Officer, Department of Chief Minister.

**Ms MOGRIDGE:** Genevieve Mogridge, Director Federal Policy and Strategic Coordination, Department of the Chief Minister.

**Madam CHAIR:** Ms Mohr, would you like to make an opening statement?

**Ms MOHR:** Madam Chair, thank you for the opportunity to brief the committee on the Electoral Legislation Amendment Bill 2018. This bill is the second of four proposed stages of electoral reforms.

The first was the Electoral Amendment Bill which focussed on the redistribution process, and that was passed by the Legislative Assembly in November 2018.

Consultations on this bill were undertaken over a 10 week period from November 2017 to January 2018, through the Have Your Say website, consultation meetings, presentations and letters sent to key stakeholders and members of the Legislative Assembly. More detailed consultation was undertaken with the Northern Territory Electoral Commission on the operational aspects of this bill. The Department of Local Government, Housing and Community Development was also consulted in relation to consequential amendments affecting local government elections.

As outlined in previous appearances before the committee, the overarching aim of electoral reform is to improve participation and increase public support and confidence in our system of government. This is a key element of the government's integrity reform agenda.

The purpose of this bill is to amend the *Electoral Act 2004*, to provide for two key changes to the way voting and campaigning operate in Northern Territory elections.

The first key amendment relates to changing the voting method to return to the use of full preferential voting for Territory elections. In the light of the committee's written questions which focussed only on one aspect of the bill, my opening statement does not address amendments relating to the change of the voting method. However, the representatives of the Department of the Chief Minister here today, can answer any questions that the committee might have in relation to that.

The second key amendment relates to the current 100 metre prohibition zone around voting centres where campaigning is prohibited. This prohibition was introduced to ensure voters have easier access to voting centres and do not have to walk the gauntlet in order to enter a voting centre and cast their vote.

Section 275 prohibits certain campaigning activities such as canvassing for votes and exhibiting signs related to the election. At the 2016 Territory election, a number of issues with the 100 metre zone were identified, particularly in remote and regional areas and at pre-election voting centres. In such instances, 100 metres was too large a distance relative to the size, nature and location of the voting centre.

For example—and the Electoral Commissioner referred to this—at pre-election voting centres there were examples where 100 metres included a large portion of a shopping centre. The 2016 Territory Election report, published by the Northern Territory Electoral Commission, identified that the 100 metre zone was particularly problematic in mobile voting centres in remote locations where prohibition zones encompassed entire communities or a significant number of private residences within that community.

The bill retains the 100 metre prohibition zone for election day voting centres and introduces a smaller 10 metre buffer zone for mobile voting centres and pre-election voting centres, including regional and remote areas. This reflects the different nature of voting centres in the Territory with the new section 275A providing the Electoral Commission with the discretion to designate an alternate prohibition zone with boundaries between 10 metres and 100 metres.

The proposed amendments recognise that a one-size approach can lead to unintended consequences. Providing a discretionary power for the Electoral Commission will ensure that prohibition zones are applied appropriately in each voting centre. However, the importance of maintaining equity between voting centres was also considered in providing this discretion. It is for this reason that the commission's discretionary power is limited by the act to set the boundary of a prohibition zone between 10 metres and 100 metres.

A healthy democracy requires voters to have access to electoral information such as how-to-vote cards or speaking with candidates and campaigners. As noted by the Electoral Commissioner in his submission to the committee, and his statement to you today, the provision of this information is particularly important with the proposed return to full preferential voting.

New section 275B allows the Northern Territory Electoral Commission to designate an area within a prohibition zone to be a designated campaign area. Within a designated campaign area, a person can hand out how-to-vote cards and discuss electoral matters with voters.

The intention of these areas is to give voters the option to approach the designated campaign area to obtain electoral material and speak with campaigners. To ensure a gauntlet is not recreated, section 275B requires that designated campaign areas must be located to be accessible by voters who wish to speak to candidates or campaigners, but also avoidable by voters who do not wish to engage.

Finally, the bill introduces a provision for the Electoral Commission to issue a code of conduct for campaigners to govern the behaviour of campaigners at voting centres, both in and outside the prohibition zones. It will formalise information contained in existing guidelines and newsletters published by the Electoral Commission. This is a key tool to support reducing the prohibition zone at pre-election and mobile voting centres, while maintaining appropriate campaigning behaviours.

The code of conduct used in conjunction with prohibition zones would ensure a consistent and orderly approach to campaigning across voting centres, ensuring voters have easy access to voting centres and an undisturbed voting experience. It sounds like you want to vote! To ensure any code of conduct is robust, fair and transparent, before issuing the code of conduct, the proposed amendments require the Northern Territory Electoral Commission to consult with the leader of each registered political party and each unendorsed Member of the Legislative Assembly in the development of the code.

I will now present my colleagues who have already introduced themselves and are available to answer any questions you may have regarding this amendment bill. In particular, I ask Tom McCrie to address an issue that was raised about what is and is not allowed in a designated campaign area.

**Mr McCRIE:** One of the important things to conceptualise about the designated campaign area is that it is an overlay on the existing framework for voting centres.

To start with, the act already provides certain prohibitions of what can happen inside a polling place. Section 276, for example, says that a person must not wear or display in a polling place a badge, emblem, poster or other thing associated with a political party or candidate.

The only limitation on wearing a badge, T-shirt or any other item of that nature is actually within the polling place itself. That is as distinct from the prohibition zones that we have been talking about. There is a similar—section 277—to do with exhibiting cards or materials dealing with electoral matter.

On top of that, they are strictest level of prohibitions applying within a polling place. Outside of that you have the prohibition area—we are looking at areas between 10 and 100 metres depending on the location, physical characteristics and essentially the needs of that voting centre.

Section 275 of the act as it currently stands, and the same prohibitions are maintained, are that certain activities are prohibited within that 100 metre zone or 10 metre zone—so that is canvassing for votes, soliciting for votes. While these are not defined, general meaning is really about that direct initiation of contact with voters—that is the canvassing and soliciting aspect of it.

You are not allowed to induce a person not to vote for a particular candidate or induce a person not to vote at the election—the negative and the inverse of the canvassing and soliciting for votes—and you are not allowed to exhibit a notice or sign relating to an election.

Also under section 275, a person is not allowed to use a loud speaker, public address system, amplifier or any other thing to broadcast any matters that are audible within 100 metres of the entrance of a polling place. That is the second level of restrictions that apply only within the prohibition zone.

The designated campaign area, rather than conceptualising it as an exemption area it allows very specific listed activities to be undertaken within that designated campaign area. Within the bill we are looking at section 275(B).

The only three behaviours and activities that are reintroduced are canvassing for votes, soliciting for votes—that is that direct initiation of contact, which is why it is really important that the alternate designated campaign area is located somewhere that people can choose to avoid. If you are far enough away, even if you are 10 metres away from the main path to the entrance, it is really difficult to initiate that direct contact with a person. The location of it is a really key aspect of limiting what behaviours are going to be at any effect from that campaign area.

The other activity that is allowed is handing out how to vote cards. Things like wearing a shirt, wearing badges—they would be permitted within the designated campaign area because the only prohibition on those is within the polling place itself. Using things to amplify noise—none of that will be permitted because that is still prohibited within the 100 metres zone. Signs would remain prohibited—it has not be re-allowed by the designated campaign area.

These are the real key behaviours that the act has identified as being both important for providing information but also the most critical to not being a disruption to people that are there to vote. There would be perhaps other specific behaviours that have not been listed here and it is more appropriate that they are dealt with through the code of conduct.

A prohibition zone is a really blunt tool. It is just about moving people outside the area to get rid of that immediate disruption. The power to remove people that are being disruptive is supported by the code

of conduct which is really to take you up to those behaviours that probably do not quite amount to a disruption.

If there is an annoyance being caused it is probably within the designated campaign area which is at quite a distance from where people are walking, so there is only a limited number of behaviours that would need to be captured by the code of conduct, and it would allow targeting very specific things. For example, it could talk about approaching people as they are getting out of their cars.

Rather than trying to have a prohibition area that deals with every single place a person might get out of their car, if it is busy you will not necessarily designate the area that goes all the way down the street to everywhere people might park at a particular time during the day.

The code of conduct allows you to say, 'No, we will target this very specific behaviour which causes an annoyance to the person', whether it is getting in and out of the car within car parks or some of the common-sense things the commissioner mentioned there were troubles with.

**Madam CHAIR:** The code of conduct would be created by the Electoral Commission?

**Mr McCRIE:** Yes. It gives that opportunity for proper consultation with members of the Assembly too.

The prohibition area is also not a great tool for dealing with behaviours on private property. If it is extended too far, it runs the risk that you are limiting people's rights to do what they want to from within their own property. There are behaviours that are causing problems and a code of conduct is the better tool to use for that.

**Madam CHAIR:** Thank you. I open it up to the committee for questions.

**Mrs FINOCCHIARO:** Thank you. Obviously, the intention of all of this was to do away, as you said, with the gauntlet and people should just be able to vote in peace and quiet if that is what they choose to do. With the designated campaign area within the prohibition zone, it is interesting, for example, that a candidate would not be allowed to have a tent with their name on it because signs remain prohibited, but they would be able to canvass and solicit for votes. They would be able to say, 'Hi, Mary. Do not forget to vote for me', for example.

The intention of the spaces—that being to create a space where people can access important information and maybe ask questions about policy of the candidate seems—what is the word?—at odds with one another. Yet, it permits a behaviour from the candidate or campaign worker that is not necessarily sought by the person walking in—that example of being called out to perhaps—versus things that do not cause any disruption at all like a tent or corflute sign. That is an observation.

I understand what the intention is, but perhaps within that designated campaign area the priorities are—do you understand what I am saying? One is disruptive and one is not, but the disruptive one is allowed and the non-disruptive one is not allowed.

**Mrs LAMBLEY:** How did this designated campaign area has come about? Before the Commissioner was talking about, basically, human behaviour and creating fairness in assisting people to vote within a fully preferential system.

If you have a designated area in which that information is available—when I think of the human behaviour I have witnessed over many years now of people coming into polling booths, it is often the unassertive, shy, perhaps less educated people who will definitely not go to the designated area to talk or access any information. You could make the assumption that they are the people who require the information the most. I just do not see how this will create any fairness.

Was that considered when you were writing this legislation? It is those people who probably need more assistance but are less likely to go to the designated campaign areas, from my observation of human behaviour at polling booths in the Northern Territory. I do not know, that is just my thought.

**Ms MOHR:** It is very difficult to legislate for those kinds of circumstances. The legislation assumed that through the election campaign period there would be an education process. Candidates would be providing information in various forms, venues and through various means as to how to vote, what their preferences are, and what their preference arrangement has been made.

This is trying to find that balance between having that information available for people who want it, but also making it not so confronting when people attend a polling place.

**Mrs LAMBLEY:** Was there any consideration just going back to the way it was in 2012? It seems like an easier option to me.

**Mrs FINOCCHIARO:** Is it a gauntlet by another name?

**Mrs LAMBLEY:** Yes.

**Mrs FINOCCHIARO:** That is where my statement was—how was the decision arrived at that campaigners could effectively engage in gauntlet style behaviour but then something like a simple sign is still not permitted?

**Ms DOHERTY:** In terms of reintroducing the gauntlet there was a fairly clear objective in establishing the designated campaign areas to ensure that they are far enough away so that they do not reintroduce the gauntlet but accessible to voters, and that would be at the discretion of the Electoral Commissioner to determine that.

In terms of the reason why we considered the need for the designated campaign areas altogether, the introduction of the full preferential voting system, we did consider—and the Electoral Commissioner addressed this as well in his statement—we did consider having just how to vote cards displayed at tables.

That would require the Electoral Commissioner and his staff to be able to monitor those particular designated tables across all of the polling centres, which is quite resource intensive and it also puts the Electoral Commissioner potentially in a difficult area in terms of arbitrating the equity between those different areas.

It has been arrived at as a suitable balance to achieve those goals. The particular reason why we thought it was required was because of the reintroduction of the full preferential voting system, which would mean that voters would need that extra information, and potentially some extra advice from candidates on the election day.

**Madam CHAIR:** Can I raise two quick things? Our committee provided the department with some questions. I wanted to make sure that they were tabled on public record that we have all received the responses, so thank you because we will not have the time to go through.

The second thing I wanted to raise was in regards to the Electoral Commissioners submission. He asked for schools to be included as an over 100 metres for a prohibition zone. Can you give some feedback or comment on that, please?

**Mr McCRIE:** Both the Member for Spillett and the Member for Araluen mentioned the difficulty in balancing the amount of discretion that is placed on the Electoral Commission in determining those boundaries and also if you did extend that boundary, what type of guidelines would need to be put in place to manage that?

That is a really tough balance to strike. There are a few different approaches that could be taken to do that. Limiting the power to 100 metres was considered that you would get people far enough away from the area, so if a person was at 100 metres or 97 metres, it probably does not matter if they are on the middle of a school oval that is 98 metres away from the entrance to a polling place, it has achieved that objective of removing the gauntlet.

The risk of extending it much further is you do create that inequity between polling places based purely on the geographical location of it. If you go to a fence that might be 40 metres but in other places it might be 500 metres, it was about striking that balance and offering some protection for the Electoral Commission that they do not have complete discretion for how they apply it. This would open themselves to comment from other people who are involved.

**Ms MOHR:** One option could be to make an exemption where if a polling place is a school, the entire school boundary could be defined. That may or may not exceed the 100 metres. It was felt that the 100 metres provided sufficient scope between 10 metres and 100 metres, but that is a matter for the committee to consider.

**Madam CHAIR:** We have time for one more question.

**Mrs FINOCCHIARO:** I cannot get past the point of the designated campaign area. I understand, obviously with the return to the optional preferential and more of a need for how-to-vote cards and things like that, which is fine. In my mind, I cannot understand how that decision for those three criteria within that area has been arrived at, given the intention of the act is to keep things as calm and completely that campaigners are not even there, but there is the ability to access.

You have the ability of three campaign workers to stand in an area, literally canvass votes, call out to people and engage in that type of activity, but you cannot have a sign which does not talk or move. It is an interesting juxtaposition of activity that can take place.

I would have thought to facilitate people being able to access, you would have one sign from which everyone can identify who the candidate are and a table with pamphlets on it, and off you go, as opposed to that ability for campaign worker to proactively interact with people who are not coming over of their own volition.

It still remains unclear to me how those three criteria were arrived at, as distinct from any other combination of criteria for that area.

**Ms DOHERTY:** Member for Spillett, in what is allowed in the designated campaign area and why we arrived at that—the three significant things are to canvass for votes, solicit the vote of a person and to hand out how-to-vote cards.

The first two—I think Tom had mentioned—are not clearly defined in the act, but they are taken by their general meaning which is to initiate a conversation with a person, as opposed to calling someone out. Notwithstanding we had specifically contemplated that issue in the designated campaign area, which is why they would be placed in an area where they would not be in people's face or personal space when they arrive at the centre.

I would not expect that it would be allowable, for example, under the code of conduct for shouting to take place to ask people to come over and that more invasive-type behaviours that might interrupt someone's voting experience, if they did not want that to happen. The key thing is that the voter has to want to go to the designated campaign area and they are not to be enticed to do so. That is the key point.

Tom, did you want to add anything else?

**Ms NELSON:** Sorry, this is Sandra Nelson, the Member for Katherine. Thank you for clarifying that point, but I am a little confused like the Member for Spillett is. If one of the key criteria is we do not want to create a situation where people are being called over or there is yelling across the grass or space to call people over, would you have a table with the how-to-vote cards placed on the table? Is that not a better option?

Is that not a bit easier to manage than to have a designated area with three campaigners there, and they are all trying to outdo each other to draw some attention? How will you monitor that designated area for three campaigners? If you got rid of that and just placed a table there with the how-to-vote cards for each candidate and one corflute that is up on a stand behind that table, is that not easier to manage and less resource intensive?

**Ms DOHERTY:** Thank you, Member for Katherine. We have discussed with the committee already the resourcing implications and the practical limitations of having an unmanned, if you like, table with how-to-vote cards in place at all of the designated areas and the implications that would have for the Electoral Commissioner and his staff on the day.

I suspect that the designated campaign areas and the way in which we have described it, has provided what we feel is an appropriate balance between being able to provide voters with access on that party's policy platforms, for example, in an undisturbed and contained area in which they can also seek information about the new changes to the how-to-vote system.

**Madam CHAIR:** Ladies and gentlemen, that concludes our time on this section of the public hearing. I thank the staff from the Department of the Chief Minister for attending today and appearing before our committee. Thank you again.

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**Mr Gerry Wood MLA - Member for Nelson**

**Madam CHAIR:** Good afternoon everyone. Thank you for joining us. I am Ngaree Ah Kit, Member for Karama and Chair of the Social Policy Scrutiny Committee. On behalf of the committee I welcome everyone to this public briefing into the Electoral Legislation Amendment Bill 2018. I also acknowledge my fellow committee members in attendance today: Deputy Chair, Robyn Lambley, Member for Araluen; Sandra Nelson, Member for Katherine on the phone; and Lia Finocchiaro, Member for Spillett.

I welcome to the table to give evidence to the committee Mr Gerry Wood, Member for Nelson. Thank you for coming before the committee this afternoon. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public briefing and is being webcast through the Assembly's website. A transcript will be made for use by the committee and may be put on the committee's website.

If, at any time during the hearing, you are concerned that what you will say should not be made public, you may ask that the committee go into a closed session and take your evidence in private. I will ask you to state your name for the record and the capacity in which they appear. I will then invite you to make a brief opening statement before proceeding to the committee's questions. Could you please state your name and the capacity in which you are appearing this afternoon?

**Mr WOOD:** Gerry Wood, Independent Member for Nelson in the capacity as a member of the Legislative Assembly.

I do not have a prepared opening statement. I apologise to the secretary if I misinterpreted about my attendance here. I thank you for the opportunity to still be able to speak.

I have been involved in electoral reform for a long time. In fact, when these changes were originally introduced, I had a motion in parliament at that time asking for some changes to the way that the public could attend the polling booth without being harassed. Having been through many elections, from experience I know that people—not everybody—dislike very much having to go through the gauntlet. In fact, in the Chief Minister's summing up of this legislation, he said he hoped these changes will continue to stop that gauntlet happening.

Without going down the history path too much, there are a few issues that concern me in relation to what has been proposed. The idea of having a prohibited area was that it be a prohibited area. The reason for supporting the area around the polling booth being 100 metres was so there was no one inside it to harass you, yell out to you or do anything. You could go into that area and not have to put up with all the shenanigans that used to occur.

People might remember the problems that occurred with the election for Blain, I think it was, where a lot of these issues really came to the fore.

One of the areas that the government and the Electoral Commissioner said is that they believe that we need these areas because when they go in to full preferential, I do not accept that. I understand that we are going to full preferential. We have had full preferential for every election, except the last one.

The suggestions about having a table or some sort of board or even having it inside the polling area where how to vote cards are place is a good one, but we forget some other thing. If you are an elected member and you know there is an election coming up, you do not just sit around and wait to give out your how to vote cards on the day, you get out and you order, as I have in my case, put my how to vote card in everybody's letter box. In my case, in everybody's front gate.

The only issue with that today is that because we have introduced early polling the time between when you know who will be on the ballot paper and the time allowed to print that for yourself to show you where your preferences will be is shorter than it used to be originally—and if there was a suggestion to be made is that gap between when candidates are declared and when pre-polling starts should be longer. At the moment it can make it difficult for people to get out their how to vote cards earlier.

I do not think they are necessary. The Member for Spillett raised an interesting question—in a prohibited area I can wear a big T-shirt with my picture on it but I cannot have a poster. That seems to be an anomaly in the first place. My feeling is that we are getting away from the very reason we introduced prohibited areas.

We have also introduced an area less than 100 metres. I will give you an example of where voting at Howard Springs was done at the Howard Springs hall. The original maps that came out were not always that accurate. I do not know who measured from Google, but some cases were 60 metres and some cases was 100 metres, and I raised that with the Electoral Commission saying some of these maps were not done accurately.

In cases where, for instance, it crosses the road and hits the front fence of private land, it would make common sense that that is the boundary—the fence of the private property—because you cannot go on there. You are not going to go through the private property to get to the polling booth—so there perhaps needs to be some discretion.

Even if you said an average of 100 metres—there may be no access from the back of the school. What you are trying to do is allow people to access the polling booth without being harassed. That is the reason this legislation was to be introduced.

You need some discretion. Once you put it down to a geometrical measure that is bound, then you run in to problems. What confuses me then is that there is discussion that there is a danger with the commissioner having discretion. There is already discretion built in to section 275—where there is a discretion between whether it is 10 metres to 100 metres. I think it is 275(4)—I am just making sure I have the right one. You can have 100 metres and you can have 10 metres and some of that will be to the discretion of the commissioner.

I am happy if the discretion bases itself on, we should aim for 100 metres, but if common sense means that that does not make any sense then the discretion should be—how do we achieve what we are trying to achieve? Forget the special campaigning areas at the moment. How do we achieve a boundary around a polling booth that will mean people are not harassed? That is where I would see the bill should allow the commissioner to use his discretion so that we are not just dealing with a geometrical issue.

The issue, for instance, that has been raised was the case where there was a pre-polling booth at Coolalinga. It took in the Member for Goyder's electoral office, which meant that if you had a picture in the front of it, technically she was illegal.

Common sense for me would be to draw it round. We are talking about shopping centres and that is another issue because a shopping centre like Coolalinga is not the same as one like Gateway. People who own Gateway can say no one is allowed in there to do that, but Coolalinga, which is a much more public shopping centre, it is not as easy to do.

The other thing I am concerned about is that you allow 10 metres around a pre-polling booth. Technically, within the 10 metres—and this is the same for a mobile polling booth—you could have a designated campaign area. I will use the Coolalinga example. In 10 metres, you will be harassed because you will be walking on the footpath. The only place to get there is the footpath. Where you will stick the people within 10 metres **so they** will not harass you or get in the road? I do not know if that will work.

It is the same with mobile polling booths. I have always felt that mobile polling booths are an area of contention because political parties can use those mobile polling booths to their advantage. I have been around long enough—even in the 1970s where I know that, depending on who was around at the time, they could influence voters because of the close proximity to the polling booth.

That is why we should not be designating 10 metres for a mobile polling booth or 10 metres for early polling. It should work on the theory, 'Let us work on 100 metres and if that is not practical, we will

work backwards down'. Do not set it at 10 metres. To me, if you are allowing a designated campaign area then you are back to where we started years ago. That was to try to get away from especially that party political influence in those mobile polling areas.

The commissioner also mentioned people being harassed driving to attend a polling booth. That is where I go back to the idea that he or she should have the discretion to shape that boundary so the boundary means the entrances where you drive in should be free of people as well. There needs to be some allowance to look at how these boundaries fit according to each situation.

If you have a boundary around a school and there is an entrance to a car park in the school, people have to drive through that gate to get to the school. There will be people on either side of that entrance trying to harass people. The best thing is to ensure that entrances are protected and they are included in the prohibited area.

All I am saying is there needs to be some common sense. Perhaps you still work on the 100 metres as the default, but adjust it accordingly, knowing the principle of what we are trying to do is to allow people to go to that polling booth free of harassment. That is the basis behind what you are trying to do.

Whether you can adjust the legislation to take that into account, I am not sure, but we really need to look at a little common sense in this process to achieve what the goal is. I do not think the designated campaign area is the way to go.

I agree that we can have how-to-vote cards and that there is the responsibility on me, as a member of parliament, to get out and inform people who they should vote for. We should take that into account. Plus you have all the social media. There are so many other ways you can tell people how to vote today, I am not sure there is a great need to have designated campaign areas anymore.

I will check that I have covered everything. I will be quick, sorry. I have basically covered everything I was to say. Yes, we need to stick to the principle this legislation is about—trying to reduce that harassment. The only other thing I will say is I am a great supporter of full preferential coming back. It is important that that form of voting is returned to the Territory.

**Madam CHAIR:** Thank you, Member for Nelson. I ask the committee members if they have any questions for the Member for Nelson.

**Mr WOOD:** That is good.

**Mrs FINOCCHIARO:** Thank you.

**Madam CHAIR:** Thank you very much.

**Mr WOOD:** Sorry to interrupt your proceedings.

**Madam CHAIR:** All good, thank you.