



Blind Citizens Australia

Ph 1800 033 660 | E bca@bca.org.au | W bca.org.au | ABN 90 006 985 226

Submission to the Technology Assisted Voting Review

Lodged via: TAV.Review@elections.nsw.gov.au

Contact: Jackson Reynolds-Ryan, Policy & Advocacy Manager

jackson.reynolds-ryan@bca.org.au

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Endorsed by:



Guide Dogs.
Australia



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1. Introduction

1.1 About Blind Citizens Australia

Blind Citizens Australia (BCA) is the peak national representative organisation of and for the over 500,000 people in Australia who are blind or vision impaired. For nearly 50 years, BCA has built a strong reputation for empowering Australians who are blind or vision impaired to lead full and active lives and to make meaningful contributions to our communities.

BCA provides peer support and individual advocacy to people who are blind or vision impaired across Australia. Through our campaign work, we address systemic barriers by promoting the full and equal participation in society of people who are blind or vision impaired. Through our policy work, we provide advice to community and governments on issues of importance to people who are blind or vision impaired. As a disability-led organisation, our work is directly informed by lived experience. All directors are full members of BCA and the majority of our volunteers and staff are blind or vision impaired. They are of diverse backgrounds and identities.

1.2 About people who are blind or vision impaired

There are currently more than 500,000 people who are blind or vision impaired in Australia with estimates that this will rise to 564,000 by 2030. According to Vision Initiative, around 80% of vision loss in Australia is caused by conditions that become more common as people age¹.

Australians who are blind or vision impaired can live rich and active lives and make meaningful contributions to their communities: working, volunteering, raising families and engaging in sports and other recreational activities.

The extent to which people can actively and independently participate in community life does, however, rely on facilities, services and systems that are available to the public being designed in a way that makes them inclusive of the needs of all citizens – including those who are blind or vision impaired.

2. Submission context

This submission is based on existing legislation and frameworks, noting gaps in the fulfilment of requirements laid out in existing documentation. The pertinent acts and legislation are:

- United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) – Particularly Article 29: Participation in Public and Political Life.
- The International Covenant on Civil and Political Rights
- The Disability Discrimination Act 1992 (Cwlth)
- The National Disability Strategy 2021-2031 (this strategy coordinates the implementation of the UNCRPD)

This submission is a response to the TAV Review Consultation Paper and Terms of Reference, especially sections:

- 3** – the needs of electors who are blind or have low vision, and other electors with a disability, in relation to independently casting a secret and verifiable vote
- 5** – the risks and benefits of TAV to the integrity of the NSW electoral system, including the impact of TAV at different scales on the level of risk of technical error and on the rates of participation in NSW elections
- 6** – the feasibility of making TAV available through personal networked devices at the 2027 State election and subsequent state and local government elections
- 8** – technology-related developments in electoral administrations in similar jurisdictions
- 9** – mechanisms for national coordination of TAV policies and systems for the States, Territories and the Commonwealth

Our response is based on extensive consultations with members and other people who are blind or vision impaired during the elections that were held throughout 2021 - 2022, extensive sector engagement, as well as our ongoing advocacy work in this area.

3. Blind Citizens Australia's submission

3.1 A Right to Democratic Participation

The principle of free and equal participation in the political process is a fundamental tenet of democracy which includes the right of citizens to cast a secret vote in government elections. Australia was the first country in the world to allow citizens to cast their vote anonymously, a concept that was quickly adopted in democracies across the world. Yet electoral processes in NSW, which rely on pencil and paper voting, means that people who are blind or vision impaired are forced to rely on another person to assist them to vote – whether that is a support worker, a spouse or other family member, or Electoral Commission staff – and trust that they have completed the ballot paper accurately according to their wishes.

Whilst the human-assisted telephone voting systems that have been used at recent Federal Elections (and is planned for use at the March 2023 NSW General Election) go some way to protecting the anonymity of the voter, it does little to allow a voter who is blind or vision impaired an opportunity to verify their ballot has been entered correctly. The voter is still forced to trust that election staff are recording their voting preferences correctly, and will not change anything before the ballot has been submitted. This is covered in more detail in section 3.2.

Australia's obligations under the International Covenant on Civil and Political Rights (ICCPR) includes Article 25(b) – ensuring the right to vote by secret ballot without distinction or unreasonable restrictions²; similarly, Article 29 of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) requires governments ensure people with disability can enjoy political rights on an equal basis with others, including the right to vote by secret ballot. Article 29 of the CRPD also requires governments to ensure that voting procedures, facilities and materials are “appropriate, accessible and easy to understand and use” and to facilitate “the use of assistive and new technologies where appropriate”³.

We believe that by refusing to adopt a truly accessible and anonymous voting systems, governments in Australia are failing to meet the commitments to equal political participation made under the ICCPR and CRPD. In addition, failing to have an election process that is accessible to all residents has the potential to result in the formation of a government that does not reflect the needs, interests, and values of the residents it claims to represent. However, this review into Technology Assisted Voting

(TAV) provides an opportunity for NSW to reclaim its title as the nation leader in providing an accessible form of voting.

3.2 Voting Options for People who are Blind or Vision Impaired in NSW

Background

The TAV system known as 'iVote' was introduced in 2011 to cater for people who are blind or vision impaired. iVote allowed voters to cast their vote by internet (through a computer, smartphone or tablet) or by telephone. This provided voters who are blind or vision impaired with several options for voting that may suit their particular accessibility needs. At the time of its introduction, it was estimated there were about 70,000 voters in NSW who were blind or vision impaired⁴. iVote was also expected to benefit people with other disabilities (around 330,000 voters) and people in remote locations (around 6,500 voters) who had difficulty attending a polling station and casting a vote in the same way as other NSW voters⁵.

Since 2011, iVote has enabled thousands of voters who are blind or vision impaired, and many more voters who have other disabilities or circumstances that make it difficult to access a polling station, to cast their votes independently and participate equally in NSW elections. NSWEC analysis since 2011 has shown increasing uptake of iVote and 'a high degree of satisfaction among electors who used iVote' as well as reporting that about 10% of electors who used iVote would not have been able to vote had iVote not been available⁶. In the 2015 election alone, nearly 5000 people who are blind or vision impaired used iVote to cast their ballot.

However, on 15 March 2022, the NSW Electoral Commissioner determined that technology assisted voting (understood by BCA to mean iVote) would not be used for the 2023 general election. Instead, the Commissioner said he would recommend telephone voting be made available for blind and vision impaired voters⁷. We believe the decision to decommission iVote without plans for a replacement infringed on the rights of people who are blind or vision impaired to participate fully in the electoral process, as it removed the only existing accessible voting mechanism to ensure an independent, secret, and verifiable vote for our community.

It is worth noting the Commissioner made this determination two days before the NSW Supreme Court gave its decision in *NSW Electoral Commission v Kempsey Shire Council (No 2)* [2022] NSWSC 282, invalidating the results in three local government elections because of problems with iVote that prevented some voters from casting their votes. However, the Commissioner has stated to

BCA, and to NSW Parliament, that the reason for this decision was that he became aware that a new version of the iVote software was being rolled out by the software provider, Scytll, and the old version would no longer be supported – requiring an extensive configuration process which would not be possible to complete prior to the 2023 election. While we can understand the challenge this created, we were disappointed there was no consultation with affected stakeholders, including the blindness community, prior to the Electoral Commissioner making the decision to discontinue iVote.

Options for NSW General Election 2023

The NSW Electoral Commissioner has recommended the use of a human-assisted telephone voting service as an alternative to iVote for blind and vision impaired voters in forthcoming elections. We understand this will be similar to the systems in place at the Federal and Victorian Elections held in 2022, and that the process for using the phone voting system is as follows:

- An eligible voter registers by calling the dedicated telephone service and receiving an ID number.
- The voter calls the telephone service again, and this time provides ID number. The voter casts a vote by disclosing preferences to an electoral commission staff member who manually fills out a paper ballot.
- A second staff member observes the first staff member completing the ballot paper and confirms it reflects the voter's instructions.

By contrast, the process for voting using iVote involved the following steps:

- An eligible voter could register online or through the iVote registration call centre, set a PIN and receive a vote ID.
- Once voting started, the voter could log into iVote online or by telephone, using the PIN and vote ID. The voter casts their vote using that device (which they are likely to already be familiar with and have personalised to their needs) without assistance from another person.
- To ensure their vote has been recorded correctly, the voter could contact the verification server and provide their PIN, vote ID and vote receipt number at any time after a vote is cast and before voting closes. The vote is read aloud by text-to-speech technology.
- At the end of the election, the receipt numbers are uploaded to the iVote website and voters can check that their votes were counted in the total by searching their receipt numbers

A Fit for Purpose System

Ultimately, the form of telephone voting for people who are blind or vision impaired that has been proposed for use at the 2023 NSW Election does not enable those voters to cast their vote independently - because human assistance is required. Voters cannot truly cast their vote in secret - because they must disclose it to another person. While the electoral officer completing the ballot paper cannot personally identify the voter, the experience for the voter is still one of disclosing their vote to another. The voter is also unable to verify that their vote has been recorded as they intended, unlike in TAV systems like iVote, which enabled voters to check their ballot after completing the process until the close of polling, as well as enabling voters to ensure their ballot was recorded in the total votes cast.

BCA acknowledges that the implementation of iVote in NSW was not without its challenges; however, iVote has demonstrated the capability and promise of TAV. We urge the NSW Electoral Commission to recommend that the NSW Government prioritise investing in new methods of TAV that allows voters who are blind or vision impaired to cast a genuinely secret, verifiable ballot in time for the following NSW Election (to be held in 2027).

We encourage the commission to think creatively about ways this could be achieved: it could be in the form a reworked, updated and improved version of iVote; or part of a brand new voting system specifically designed and developed for the NSW Electoral Commission. We are also aware that while iVote provided the 'gold standard' of allowing voters the convenience of voting from their own home on a device of their choosing, other forms of TAV that support accessible voting exist – including mobile kiosks that are designed to support voters with a variety of disability types. We believe it is worth exploring these options, as they have the potential to improve the electoral engagement of voters who are blind or vision impaired, as well as voters with motor impairment related disabilities, while providing a greater level of privacy and data security than was available under iVote.

Examples of voting kiosks used in other jurisdictions often feature a range of accessibility features including both audio and visual output (with headphones provided for voters who need to make use of audio instructions) and large button controllers for voters who are unable to use touchscreens; as well as built in printers and scanners to allow voters to print out, check and scan in their ballot once they are satisfied with their selection. Some even allow voters to make their voting choices ahead of time on a device of their choosing, then use QR code readers to transfer those voting preferences to an

official ballot⁸. We believe the introduction of these voting kiosks for use in future NSW Elections, especially if augmented with additional technology such as Electronic Braille Displays, has the potential to significantly improve the accessibility of voting for many people who are blind or vision impaired and other people with disability.

Regardless of the system, it is crucial that throughout the design, tender, and implementation process that the NSW Electoral Commission provides opportunities for genuine consultation and feedback by people who are blind or vision impaired – and other people with disabilities – to ensure voting is truly accessible for all people in the 2027 election.

4. Recommendations

In order to provide equal access to voting to all voters who are blind or vision impaired, and to improve the electoral participation of people with disability in future elections, BCA makes the following recommendations:

1. That the NSW Electoral Commission commits to the development of a TAV system that provides multiple options for voters who are blind or vision impaired to vote independently, secretly and verifiably; to be made available for future NSW elections.
2. That any TAV system implemented in NSW provides a voting platform that can accommodate different accessibility requirements at the same time as ensuring security and performance.
3. That the blind and vision impaired community, and the broader disability community, is consulted and involved in the development and implementation of any such system to ensure it is fit for purpose.

¹ Vision2020. *Eye health in Australia*. <http://www.visioninitiative.org.au/common-eye-conditions/eye-health-in-australia>

² Australian Human Rights Commission. *International Covenant on Civil and Political Rights – Human Rights at your Fingertips*. <https://humanrights.gov.au/our-work/commission-general/international-covenant-civil-and-political-rights-human-rights-your>

³ United Nations. *Convention on the Rights of Persons with Disabilities – Article 29*. <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-29-participation-in-political-and-public-life.html>

⁴ NSW Electoral Commission, Feasibility of the iVote Remote Electronic Voting System, July 2010
[https://www.elections.nsw.gov.au/NSWEC/media/NSWEC/Reports/iVote%20reports/Report-on-the-feasibility-of-providing-iVote-remote-electronic-voting-system-\(PDF-1004kB\).pdf](https://www.elections.nsw.gov.au/NSWEC/media/NSWEC/Reports/iVote%20reports/Report-on-the-feasibility-of-providing-iVote-remote-electronic-voting-system-(PDF-1004kB).pdf)

⁵ Ibid.

⁶ NSW Electoral Commission, iVote refresh project for the 2019 NSW State election,
<https://www.elections.nsw.gov.au/NSWEC/media/NSWEC/Reports/iVote%20reports/iVote-Refresh.pdf>

⁷ NSW Electoral Commission, 'Electoral Commissioner's determination – iVote will not be used for 2023 NSW State election' (Media release, 16 March 2022) <https://www.elections.nsw.gov.au/About-us/Media-centre/News-media-releases/Electoral-Commissioner-iVote-determination>

⁸ VSAP. *Design Concepts*. <https://vsap.lavote.gov/design-concepts-2/>