Deaf Australia’s Submission to the NSW Electoral Commission’s Technology Assisted Voting Review

January 2023

About Deaf Australia:

Deaf Australia acknowledges the Traditional Owners and Custodians of the lands on which we work and pay our respects to Indigenous Elders past and present. Sovereignty has never been ceded. It always was and always will be, Aboriginal land.

We recognise the past atrocities against Aboriginal and Torres Strait Islander peoples of this land and that Australia was founded on the genocide and dispossession of First Nations people. We acknowledge that colonial structures and policies remain in place today and recognise the ongoing struggles of First Nations people in dismantling those structures; and especially that of Deaf, Deafblind and hard of hearing First Nations peoples.

Deaf Australia was founded in 1986 as a not-for-profit organisation that represents all Deaf, Deafblind, and hard of hearing people, and others who are fluent and knowledgeable about Auslan. The focus has and continues to be on developing access to information and accessible communication. We work with Australian governments and collaborate with key stakeholders to make sure that Australia complies with the United Nations Convention on the Rights of Persons with Disabilities. The UN Convention and the National Disability Strategy guides our work; we aspire to achieve equity for Deaf people across all areas of life.

Deaf Australia advises that this document may be publicly distributed, including by placing a copy on our website.

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Key Notes:

This section includes key information about the submission that the reader should be aware of while reading.

· In this submission, Deaf Australia will use Deaf person/people/community to refer to all d/Deaf, Deafblind, and hard of hearing people who use Auslan as their language of preference, unless otherwise stated.

· We write broadly about signing Deaf people, but recognise that Deaf people are intersectional beings, and that this paper was written by a white Deaf cis-het woman, so important nuances covering Aboriginal and Torres Strait Islander Peoples, trans-women, non-binary peoples and men, BIPOC and all other intersecting identities are likely to be missing from this paper.

# Introduction:

Deaf Australia is pleased to make a submission to the NSW Electoral Commission’s Technology Assisted Voting Review. Deaf Australia operates in advocacy to ensure alignment in all areas of life to the Convention on the Rights of Persons with Disabilities (CRPD) as mandated by the United Nations (UN). Australia was a signatory to the CRPD in 2007, ratified it in 2008 and therefore is obliged to adjust policies, programs, provision of services anything else that requires equitable access and support across Australian society to ensure they fulfil their obligations.

Deaf Australia advocates for the right of Deaf, Deafblind and hard of hearing people who use Auslan to participate fully in their communities and to achieve a full social, economic, and civic life, as per Article 9: *Accessibility,* 21: *Freedom of expression and opinion, and access to information,* and 29: *Participation in political and public life.* Deaf Australia is concerned about the possibility of removing technology assisted voting. Deaf Australia therefore welcomes the opportunity to provide commentary into how Deaf people’s lives can be profoundly assured in worth and value by having equity of access. This includes the improvement to equitable access to voting. This includes the provision of Auslan wherever needed and requested. To be able to vote provides the Deaf person the ability to demonstrate their opinion of elected officials and help shape the future by voting for those who share their values. It is their fundamental right and responsibility as a citizen of Australian society.

We have already noted that the NSW parliament held an inquiry into the possibility of providing Auslan interpreters at Legislative Council proceedings in 2022. Deaf Australia was invited to take part, which it did. It presently appears to be disingenuous to raise the opportunity of providing genuine and equitable access to information that is already available to the general public on the one hand and to take away that opportunity of access to make an informed vote on the other hand.

Technology assisted voting, while critical, is not necessarily the best and only solution to providing equitable access. Just as men and women differ in demonstrating the symptoms of a heart attack, so does the Deaf community differ in their accessibility requirements. Deaf Australia believes that NSW will be an example for all other states and territories to follow in the continuation of technology assisted voting and on top of that, providing access in Auslan. This will demonstrate an example of compliance with the CRPD. It will also demonstrate compliance with the Disability Inclusion Act (2014) in NSW, which acknowledges:

*‘...that people with disability have the* ***same*** *human rights as other members of the community and that the State and the community have a responsibility to facilitate the exercise of those rights...’*

And:

*‘People with disability have the right to participate in and contribute to social and economic life and should be supported to develop and enhance their skills and experience.’*

The NSW parliament needs to integrate and enforce their obligations to the CRPD and their Disability Inclusion Act in a way that establishes equitable access to voting.

The Convention on the Rights of People with Disabilities:

The Convention on the Rights of People with Disabilities is very clear in how Australia must meet its obligations. For example:

Article 9: Accessibility

*To enable persons with disabilities to live independently and participate fully in all aspects of life,* ***States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others,*** *to the physical environment, to transportation,* ***to information and communications,******including information and communications technologies*** *and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas.*

*1b. Information, communications, and other services, including* ***electronic services*** *and emergency services*

*2e:* ***To provide forms of live assistance and intermediaries****, including guides, readers, and professional sign language interpreters,* ***to facilitate accessibility*** *to buildings and other facilities open to the public*

Technology assisted voting and the provision of Auslan – such as Auslan interpreters or Auslan made videos – upon request should be the norm and a guaranteed form of access, not the exception. The NSW Electoral Commission is obliged to take appropriate measures (as stated above) to ensure that Deaf people have equitable access to make an informed vote.

Article 21: Freedom of Expression and Opinion, and access to information

*States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the* ***freedom to seek, receive and impart information and ideas on an equal basis with others*** *and through all forms of communication of their choice.*

*b: Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions.*

It is the government's responsibility to ensure that all citizens have equal access and opportunity to be involved in voting.

Article 29: Participation in political and public life

*States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake:*

*b) To promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:*

*i. Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties;*

Enabling access to proceedings will allow Deaf people to be engaged and active citizens of Australia, as is our birthright and right as citizens of Australia. Not allowing us access to this makes the entirety of Deaf people in Australia second-class citizens.

# Response:

Auslan:

Auslan is the natural language of the Deaf community in Australia. Auslan is the preferred language of Deaf people here in Australia; and it is the only language requiring no further efforts for Deaf people to interact with their direct environment. Auslan is the key tool in the inclusion of Deaf people in both Deaf communities and in society. This fosters the building of Deaf people’s identities and their sense of belonging to their communities.

Auslan is officially recognised in Australian governmental policies as a community language since 1987, yet it is arguable as to whether it has translated into measurable success in Deaf people’s ability to fully participate as citizens in their own communities and in broader Australian contexts. The recognition of Auslan as a community language emphasises Australia’s responsibility to provide access to sign language such as the use of interpreters, and yet does not provide Deaf, Deafblind and hard of hearing people’s rights to **use** sign language. This is a highly problematic issue in that it does not align with Article 9, 21, and 29 of the CRPD.

We note in the paper *NSW Electoral Commission Technology Assisted Voting Review Paper 1 Issues and Questions* that the question was raised regarding restricting access to technology assisted voting to specific groups only and to whom. This is of concern; allocating the right to access assisted voting to specific groups assumes the exclusion of others’ rights to the same access. This also assumes that only specific forms of access will be available to those deemed suitable. This would be a negative outcome for the Deaf community because it infers that captioning and hearing loops are “good enough” to meet the standards of the Convention on the Rights of People with Disabilities. This attitude is a form of audism.

On the international scale, there are initiatives that puts Australia’s efforts of equitable access to the pale. This question of restricting access also puts Australia further behind in its efforts. We note, for example that in the US, when elections are held, Deaf voters are encouraged to contact this hotline to ask questions and receive answers in ASL[[1]](#footnote-1) for example. They are also encouraged to request ASL interpreters at the voting booth. Why do we not have the same standards here?

Audism:

Audism is the audiocentric attitude towards Deaf people based on believing that hearing and speaking is supreme to being Deaf and using sign language. Audist behaviour can be overt or covert and discriminatory in nature. Forcing Deaf people to use hearing loops or read captions at the voting booth is a form of audism because the underlying belief is that these tools provide ‘access’ and that sign language is not a credible tool of access. Forcing Deaf people to make do with lip reading when this is a highly uncertain and inefficient way of getting information is a form of audism. The belief that Deaf people are not capable of exercising self-determination and excluding them from everyday decisions made by the community and government is a form of audism.

# Captions:

To those who argue that live captioning is sufficient there is current research from ACCAN to suggest the quality of live captioning is questionable. The quality of live captions depends on the provider, the technology used and the personnel and can vary greatly across both broadcaster and program genre. Nuance is lost when watching programs exclusively with live captions. Captions are not always verbatim, so the possibility of critical information lost is high. Any prior access to content does not necessarily improve the quality of captions and indeed tended to introduce new errors such as captions preceding content. Many Deaf, Deafblind and hard of hearing people are not fluent in English.

Technology and Deaf People:

Arguably it is near impossible to find a Deaf person who is not enthusiastic and keen on some form of technology, particularly when it provides access of one form or another. Some examples include the ability to use vibration alert devices for fire, doorbell and baby crying, VRI (video relay interpreting), Whatsapp (messaging) and Zoom, to name a tiny fraction of what is currently available. There is evidence that technology has had a positive impact on increasing independence at the academic and societal level, as well as reducing isolation[[2]](#footnote-2).

We note in *NSW Electoral Commission Technology Assisted Voting Review Paper 1 Issues and Questions* there are several questions raised about standards (question 2), the risks and benefits of technology (question 5) and the suitability of current legislation to support technology assisted voting (question 7). All valid questions; however, it is misleading to operate with the concept that technology is only used at the ballot. Technology is used from the very beginning of the electoral process, such as the use of radio, social media, printing and voting registration. Given how pervasive technology is in every aspect of the electoral process, it is concerning that there is such scrutiny of the provision of technology assisted voting and it must be asked why this is the case.

It is remarkable that given the proliferation of accessible, increasingly sophisticated and affordable technologies, that the question of cost-benefit even arises as a point of concern. It is critical that, given the rapid development of technology, societal demand and increase of dependence on technology, that the review work with Deaf peak bodies such as Deaf Australia to provide feedback and participate on an equitable basis in the development of technology assisted voting that will provide genuine access to voting. Older Deaf people also use a variety of assistive and technology devices; they must therefore be included in the design and consulting process.

Where to from here?

We respond to the questions asked in *NSW Electoral Commission Technology Assisted Voting Review Paper 1 Issues and Questions*:

*1c) How should these factors be addressed and, where necessary, balanced when designing technology assisted voting systems?*

*1d) How does technology assisted voting maintain or increase participation in elections and referenda for particular classes of electors or the general voting population?*

To that end, we recommend the establishment of a group of Deaf people to assess, advise and support this integration and to establish procedures and protocols that includes best practice when establishing technology assisted voting processes and the provision of Auslan where required. We also strongly recommend that in the research and design process of any future technology assisted voting concepts that Deaf people are included at all steps of the process on an equitable basis and in the spirit of genuine collaboration.

1. See here: https://www.nad.org/voter-information/ [↑](#footnote-ref-1)
2. See, for example: Maiorana-Basas, M. & Pagliaro, C.T. (2014). Technology use among adults who are deaf and hard of hearing: A national survey. *Journal of Deaf Studies and Deaf Education*, Vol. 19 (3). & Singleton, J., Remillard, E.T., Mitzner, T.L. & Rogers, W.A. (2019). *Everyday technology use among older deaf adults. Disability & Rehabilitation: Assistive Technology*. Vol. 14 (4). [↑](#footnote-ref-2)