


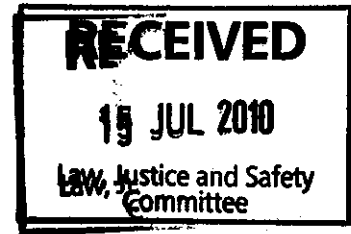


Submission 026

Victorian Electoral Commission 

Our ref: 8532

12 July 2010



Ms Barbara Stone, MP
Chair
Law, Justice and Safety Committee
Parliament House
George Street
BRISBANE QLD 4000

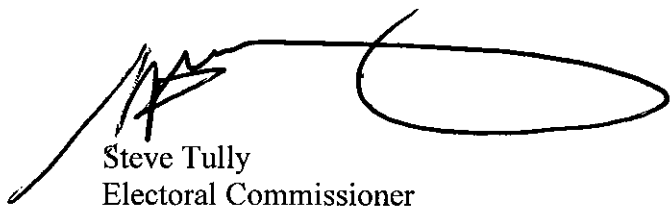
Dear Ms Stone

Inquiry into local government electoral systems

Thank you for your letter of 11 June 2010, inviting the Victorian Electoral Commission (VEC) to make a submission to the inquiry by the Law, Justice and Safety Committee into local government electoral systems in Queensland.

Please find attached a submission by the VEC. If you have any queries, you are welcome to contact Paul Thornton-Smith of the VEC on (03) 9299 0732.

Yours sincerely,



Steve Tully
Electoral Commissioner

Victorian Electoral Commission 

**Submission to the Queensland Parliament's Law,
Justice and Safety Committee Inquiry into local
government electoral systems**

July 2010

Introduction

The Queensland Parliament's Law, Justice and Safety Committee is conducting an inquiry into local government electoral systems in Queensland. The Committee's Issues Paper canvassed a wide range of matters.

A State's electoral system is the product of its history, social context and legislation. Something that might work well in one jurisdiction is not necessarily transferable to another. Nevertheless, different jurisdictions can face similar issues, and the measures adopted by another State can be instructive. The following submission outlines the local government electoral system in Victoria, and points to issues that have arisen recently.

The local government electoral system in Victoria

Elections for 78 of the 79 municipal councils in Victoria are governed by the *Local Government Act 1989* (the Act)¹.

Electoral structure

Municipal councils may comprise between five and twelve councillors. Councils can be unsubdivided or divided into wards, and these wards can be single-councillor or multi-councillor. Of Victoria's 79 councils, 23 are unsubdivided, 15 have single-councillor wards, 29 have multi-councillor wards, and 12 have a mixture of single and multi-councillor wards. Councils undergo regular electoral representation reviews, under which an electoral commission conducts a consultation process and makes recommendations to the Minister for Local Government about a council's electoral structure and ward boundaries (if any). The number of voters represented by a councillor must not vary by more than 10% from the average for the municipality².

Who can vote?

Electors on the State electoral roll are automatically on the voters' roll for council elections. In addition, there is a property franchise for Victorian councils. Ratepayers who do not live within the municipality are automatically on the council voters' roll. They comprise some 12.5% of the roll across all municipalities. As well, certain groups, including representatives of corporations and commercial lessees, are included on the roll by application to the council. These groups make up 0.5% of the roll³.

¹ Elections for the Melbourne City Council are governed by separate legislation – the *City of Melbourne Act 2001*.

² See *Report of local government electoral activity 2008-09, Part III, Report of local government electoral representation reviews conducted by the VEC between 2004 and 2008, Appendix 2*.

³ See *Report of local government electoral activity 2008-09, Part I, Report of the conduct of the 2008 local government elections, Appendix 1*. A corporation that owns or occupies property in the City of Melbourne may appoint two voting representatives. If a corporation fails to do so, the Council appoints two representatives for the corporation, using an Australian Securities and Investments Commission list of secretaries and directors of the company.

Who has to vote?

Voting is compulsory for residents on the roll. Non-residents are encouraged to vote, but not obliged to do so⁴. Voters who are 70 years of age or over are automatically excused if they fail to vote.

Who is responsible for elections?

Councils are required to tender for the conduct of elections. An electoral commission or a council can submit a tender. In practice, the VEC has conducted all local government elections since 2002. However, the Electoral Commissioner does not have legislative responsibility for the conduct of local government elections.

Postal or attendance

A council can decide that an election will be conducted entirely by post, with ballot packs being posted to all voters, or will be an attendance election, with most voters voting at voting centres on election day. In 2008, 70 of the 79 local government elections were conducted by post.

The nine attendance elections were all in the metropolitan area. Before election day, voters can vote at an early voting centre or apply for a postal vote as of right. In the 2008 elections, early voters comprised 17.7% of all voters and postal voters comprised 5.3%. On election day, voters can vote at any voting centre in the municipality instead of being restricted to voting in their ward. How-to-vote cards distributed in attendance elections must be registered by the returning officer.

Voting systems

In single-councillor wards, preferential voting applies as for the Commonwealth House of Representatives. In multi-councillor wards and unsubdivided municipalities, the voting system is the single transferable vote form of proportional representation.

In all council elections, voters complete their ballot papers in the same way, by numbering all the squares in the order of their choice. Party names and groups are not indicated on the ballot papers⁵.

The Victorian experience

The VEC conducted elections for all of Victoria's councils in 2008 – the first time in the State's history that all councillors were elected at once. From 2004 to 2008, the VEC

⁴ In Melbourne City Council elections, voting is compulsory for everyone on the roll.

⁵ The City of Melbourne is an exception – ballot papers show the candidates' parties and groups. Voters complete two ballot papers, one to elect the leadership team of Lord Mayor and Deputy using preferential voting, and one to elect seven councillors, on which voters can either vote above the line on the ballot paper for a group or below the line for individual candidates. The method of voting for councillors resembles that used in Senate elections.

conducted electoral representation reviews for 77 of the 79 councils⁶. VEC reports on these activities are available on its website at <http://vec.vic.gov.au/publications/publications-local.html>

In this period, the VEC encountered many of the issues pertinent to the Law, Justice and Safety Committee's inquiry. Some key points were as follows:

Electoral structure

The VEC recommended a variety of structures in the electoral representation reviews from 2004 to 2008. To reach its recommendations, the VEC was required to develop a methodology and detailed principles. To determine the appropriate number of councillors for a municipality, the VEC's considerations included a comparison with other similar municipalities, diversity of population, councillors' workloads and the need to prevent tied votes. To determine the appropriate internal structures, the VEC's considerations included community of interest, the longevity of the potential structure, geographic factors, the number of voters in potential wards, the easy identification of ward boundaries and the model of representation. The VEC recommended that the Government consider whether the model of representation and principles for determining the number of councillors and the internal electoral structure should be included in legislation⁷.

Who can vote?

Production of voters' rolls for Victorian local government elections involves merging the State roll database with council lists of ratepayers, which are not compiled for an electoral purpose. It is critical in this merging process to identify duplicates (people on both the State and Council databases) without removing people who are entitled to be on the roll. The VEC has developed tools and approaches to handle this process, but it remains a major task. The roll merging process is one of the main reasons why the roll closes a relatively long time (57 days) before election day⁸.

Who has to vote?

Voter turnout in 2008 was 74.68% of all those on the roll⁹. The turnout rate for State electors, who had to vote, was 79.45%, while that for voters on the council lists was 48.76%.

Councils are obliged to enforce the compulsory voting provisions of the Act. Most councils contracted the VEC to conduct non-voter follow-up on their behalf. Although many non-voters were not obliged to vote, the process of identifying non-voters, writing to them and sending Infringement Notices is a major administrative task. After the 2008 elections, the

⁶ The City of Melbourne is not subject to electoral representation reviews. The VEC conducted an informal representation review for Surf Coast Shire in 2003, before the legislation for electoral representation reviews was in place.

⁷ See *Report, Part III*, particularly pp. v-viii.

⁸ See *Report, Part I*, pp. 8-14

⁹ *Report, Part I*, Appendix 14.

first stage alone involved the sending of 371,912 Apparent Failure to Vote Notices, and required 13,868 staff hours¹⁰.

Who is responsible for elections?

The lines of responsibility for local government elections in Victoria are complex. Councils decide on the type of election (postal or attendance), appoint an electoral commission to conduct the election, negotiate the services to be provided, and prepare the ratepayers section of the voters' roll. The VEC prepares the rolls, appoints returning officers and conducts non-voter follow-up where contracted to do so. The VEC does not have any further legislative responsibilities, but in practice it plays a vital role in providing infrastructure, communication and coordination. The Returning Officer is responsible for the management of the election within the municipality, including taking nominations, appointing and managing staff, and counting the votes. Local Government Victoria (LGV), within the Department of Planning and Community Development, is responsible for investigating possible breaches of the Act.

Victoria is the only State where the Electoral Commissioner does not have legislative responsibility for the conduct of local government elections. The requirement for the VEC to respond to tenders to conduct elections is the consequence of a market-based approach to election services which in practice no longer applies, as the VEC has long been the only election service provider. The tender process increases costs and uncertainty. In the past, some councils have included particular requirements that have been difficult to comply with. In advance of the 2008 elections, the VEC circulated a plan to all councils, which assisted with coordination of election services for councils. Even so, the task of responding to tenders imposed a significant burden. The VEC has recommended that the Government consider providing a guarantee to councils that an independent service provider will be available for the conduct of local government elections under a costing arrangement stipulated in legislation. The VEC believes that a solution would be to make the Victorian Electoral Commissioner responsible for the conduct of all Victorian local government elections¹¹.

In handling election complaints in 2008, the VEC arranged with LGV that returning officers and the VEC would respond to complaints about the conduct of the elections, while all complaints about alleged breaches of the Act would be forwarded to LGV. Although this protocol led to faster responses to complaints, the division of responsibilities between the Returning Officer, VEC and LGV was confusing and frustrating for some complainants. Some complainants believed there was a conflict of interest in the Minister for Local Government considering complaints against political party candidates. The recent establishment of the Local Government Investigations and Compliance Inspectorate should mean that complaints will be handled at arm's length from the Government of the day¹².

¹⁰ See *Report, Part I*, pp. 54-56.

¹¹ See *Report, Part I*, pp. 3-4, 16-17.

¹² See *Report, Part I*, pp. 56-57;

<http://www.dpcd.vic.gov.au/Web14/dvc/dvcmain.nsf/AllDocs/114968791A3990BCCA2576240003F2FD?OpenDocument>.

Postal or attendance

The VEC has conducted both postal and attendance elections since 1996. The VEC's experience has been that elections by post tend to produce higher voter turnout rates and much lower informal voting rates than attendance elections.

The following table shows voter turnout rates (percentage of enrolled voters who cast a vote) for postal and attendance elections over time:

Election type	2002	2003	2004	2005	2008
Postal	73.78	78.42	75.07	75.66	76.44
Attendance	64.62	71.16	55.65	72.8	70.03

The proportions of State electors who vote is similar in both types of election: in 2008 the voter turnout rate for State electors in postal elections was 79.93%, while in attendance elections 77.8% of State electors voted. The critical difference is in participation by voters on the council ratepayers' lists. Whereas in postal elections 57.68% of those on the council lists voted, in attendance elections the voter turnout rate was only 10.95%.

Informal voting is consistently much lower at postal elections, as the following table shows:

Election type	2002	2003	2004	2005	2008
Postal	2.77	3.29	3.37	3.64	3.75
Attendance	7.44	8.86	10.43	9.33	9.9

The key reason for these differences appears to be the nature of the voting process. In a postal election, everyone on the roll receives a ballot pack including voting instructions and statements and indications of preferences by candidates (though not all candidates provide such statements). Voters have plenty of time to consider their vote, and then simply have to insert it in the reply-paid envelope provided and post it in time. This process particularly facilitates voting by the non-residents on the council list. In contrast, in an attendance election, voters have to go to a voting centre or apply for a postal vote. For non-residents, voting is significantly more difficult. Despite candidates' efforts, some voters may know little or nothing about the candidates when they go to vote, which may account for the higher informal vote at attendance elections¹³.

¹³ See *Report, Part I*, pp. 41-42, Appendix 14.

There have been occasional allegations that elections by post are open to fraud, through people obtaining voters' ballot packs and fraudulently voting in the voters' names. Such allegations have centred on elections for the City of Melbourne, which has the State's highest proportion of non-resident voters and also large numbers of residents living in public housing or high-rise apartments, with banks of accessible letterboxes. Although the VEC has never encountered fraud in postal elections, in 2008 it took several measures to prevent and detect fraud, including a partnership with Crime Stoppers Victoria, advertising, postal ballot material designed to fit a standard letterbox with no protrusions, and a security watch on key locations. No evidence was presented suggesting the existence of deliberate and systematic abuse of the postal voting system in Victoria¹⁴.

Voting systems

The preferential voting system encourages candidates to negotiate with each other about the recommended allocation of preferences, which are publicised in candidates' statements (in postal elections) and how-to-vote cards (in attendance elections). There are occasional allegations of "dummy" candidates – that is, candidates who act as the puppets of "real" candidates and whose sole purpose is to harvest preferences for the "real" candidates. The presence of such candidates can inflate ballot papers, making it more difficult for voters to complete them correctly. Such considerations have led to calls for the introduction of optional preferential voting or the first past the post system.

Decisions about voting systems are up to Parliament. There is no such thing as a "dummy" candidate in the Act; if a candidate has nominated correctly, he or she is a candidate like any other candidate.

It is a fact that the informal voting rate increases with the number of candidates, especially when there are more than ten candidates. The following table from the 2008 elections illustrates this pattern:

¹⁴ See *Report, Part I*, pp. 30-31; VEC Position Paper: Security of Postal Voting at <http://vec.vic.gov.au/files/PP-PostalVotingSecurity.pdf>

Number of candidates	% informal votes – postal elections	% informal votes - attendance elections
2-5	2.05	6.07
6-10	2.72	8.26
11-15	4.05	12.59
>15	6.28	18.24

The number of candidates tends to be greater in elections for unsubdivided councils and multi-councillor wards. In electoral representation reviews, this factor has inhibited the VEC from recommending large multi-councillor wards in some cases, even though such wards would better represent communities of interest. The VEC has recommended that the Government consider optional preferential voting¹⁵.

Steve Tully
 Electoral Commissioner
 12 July 2010

¹⁵ See *Report, Part I*, pp.xii, 42; *Part III*, p. 31.