

Local Government Electoral Review Recommendations feedback form

In 2013-14, the independent Local Government Electoral Review Panel (Panel) carried out a comprehensive review of Victoria's local government electoral system, making 55 recommendations.

The Victorian Government is seeking feedback on the recommendations. Please complete this form to have your say.

The closing date for feedback is Monday 3 November 2014.

The Panel's Stage 1 and Stage 2 reports and discussion paper are available on the Department of Transport, Planning and Local Infrastructure's (DTPLI) website at: www.dtpli.vic.gov.au/electoral-review.

Please send your completed form to DTPLI:

by post: Local Government Victoria
Reply Paid 88857
MELBOURNE VIC 8060

by email: lg.electoralreview@dtpli.vic.gov.au

For more information, please call Local Government Victoria on 1300 736 075.

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Your municipality (please check more than one box if appropriate)		<input checked="" type="checkbox"/> I am a resident of ___Bayside City_____ Council <input checked="" type="checkbox"/> I am a non-resident ratepayer of _____ Council <input checked="" type="checkbox"/> I am a business owner in _____ Council <input checked="" type="checkbox"/> Other (please provide details)			
Is your feedback on behalf of an organisation? <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Yes					
If yes:	Organisation name		Proportional Representation Society of Australia (Victoria-Tasmania) Inc.		
	Position title		President		

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PROVIDING FEEDBACK ON THE RECOMMENDATIONS

Please provide your feedback on any or all of the Local Government Electoral Review Panel's 55 recommendations, which are listed on this form.

Abbreviations

CaLD Culturally and linguistically diverse

CEO Chief Executive Officer

VEC Victorian Electoral Commission

STAGE 1 RECOMMENDATIONS

For more information on Stage 1, please refer to the Panel's Stage 1 report and discussion paper, available online at: www.dtpli.vic.gov.au/electoral-review.

Voters

The Panel recommends that:

1. The voter franchise for Victorian local government elections be broadened to bring it into closer alignment with the 'local community' as defined in the *Local Government Act 1989*.
2. To give effect to the revised statewide franchise, the following eligibility criteria be implemented through a revision to the *Local Government Act 1989*:
 - a) aged 18 and above
and either
 - b) citizens or permanent residents living in the municipality
 - c) owners of property in the municipality
 - d) lessees of non-residential property in the municipality
 - e) those who pay rates on a property within the municipality.
3. A person may be enrolled only once in a municipality, regardless of how many entitlements he or she may have.
4. A corporation may nominate only one representative, who may be enrolled only once in a municipality.
5. The *Local Government Act 1989* and electoral regulations be amended to make voting compulsory for all those enrolled to vote.
6. The application of compulsory voting be extended to persons aged 70 and over, bringing local government arrangements in Victoria into line with other jurisdictions.
7. Other than those already enrolled on the state roll, automatic enrolment for some voters cease and that those voters not on the state roll be required to enrol on an applications-only basis.
8. The process of constructing the voters' roll be streamlined and centralised by removing the requirement on CEOs to maintain the voters' roll and transferring this responsibility to the VEC, including the receipt and administration of enrolment applications.

9. To support transition to a broadened franchise, both the VEC and local governments conduct a comprehensive, statewide campaign backed up by strong community engagement at the local level to encourage enrolment of voters in every municipality. This should be consistent with the role played by the VEC for state elections, including its outreach efforts to the CaLD community.
10. As an extension to the awareness campaign, under the new provisions, transitional arrangements be put in place to support re-enrolment of current enrollees on voters' rolls in Victoria.
11. The provisions for inspection of the voters' roll be brought into line with those pertaining to the state roll, which provide for inspection of the state roll by any person with the VEC at any point in the election cycle.
12. The *Local Government Act 1989* be amended to remove the requirement for the preparation of an exhibition roll.
13. The VEC's enrolment campaign contain the appropriate privacy information by reminding voters that their personal details are available to candidates for campaigning purposes. This campaign should advise individuals that they can request to be silent voters if there are personal safety grounds on which to base an application to protect their private information.
14. All candidates be required to return to the VEC at the conclusion of the election all copies of the voters' roll supplied to them.

Do you support any or all of these recommendations? Why or why not?

No comment

Candidates

The Panel recommends that:

15. The *Local Government Act 1989* be amended to include an additional disqualification for individuals who have been banned under the Australian Securities and Investments Commission (ASIC) regime from managing a corporation.
16. The eligibility criteria to stand for election to local government be broadened to align with the right to vote in local government elections.
17. The *Local Government Act 1989* and regulations be amended to require that:
 - candidates nominate in person on a no exceptions basis through removal of schedule 2 clause 5 of the *Local Government Act 1989*, which provides for nominations to be submitted via a third party
 - candidates demonstrate a minimal level of endorsement of their candidature (from six of their peers enrolled in the municipality)
 - candidates complete a revised candidate nomination form, which requires them to note and respond to all disqualification conditions, unambiguously confirming that none of the disqualification conditions apply to them (see proposed revised nomination form with extended declaration at Appendix 4 in the Stage 1 report)
 - councils be required to arrange police checks and insolvency and ASIC rulings for when candidates are elected councillors.
18. The *Local Government Act 1989* be amended to include 'not being on the voters' roll' as a condition under which a returning officer at an election can reject the nomination application of any proposed candidate.
19. To address the insufficiency of comparable information about candidates, each candidate be asked a standard set of questions as part of the nomination process.

20. The answers to these questions be made available to voters in the form of a candidate information template in the postal ballot packs provided by the VEC and this information made available on the VEC website.
21. While candidates would have the right to withhold answers to some or all of the prescribed questions, all their answers (including 'no response') would be made available to voters.
22. The standard questions on the nomination form ask candidates to provide information on:
 - their contact details, including a phone number and a recent photograph
 - whether they live in the municipality that is being contested and, if not, their entitlement to be on the voters' roll for the municipality
 - work and professional experience
 - voluntary experience, council and community leadership experience and/or relevant committee and board memberships
 - any training and/or information sessions they have attended to prepare themselves to discharge the responsibilities of a councillor
 - whether they are a member of a registered political party
 - whether they are endorsed by a registered political party to stand in the local government election they wish to contest
 - a 200-word candidate statement (300 words for Melbourne City Council teams and groups).
23. The State Government legislate to limit the amount that each candidate may receive as a campaign donation from any individual or organisation to \$1000, and that the threshold that triggers a conflict of interest for a sitting councillor because of a campaign donation be varied to above \$1000.
24. Noting the specific election arrangements in the City of Melbourne, the limit for campaign donations to joint teams and groups at its elections be the number of candidates running in the relevant team or group multiplied by the donation threshold.
25. Any donation made directly to an individual in a joint team/group counts as a donation to that team/group and is subject to the cap.
26. Candidates' how-to-vote recommendations not be contained in the postal packs circulated by the VEC.

Do you support any or all of these recommendations? Why or why not?

PRSAV-T Inc. supports Recommendation 18, which is correcting an oversight in the present legislation.

PRSAV-T Inc. strongly supports Recommendation 26, as that is a major measure to remove the main provision that has allowed [dummy candidates to proliferate](#). It has been the way in which dummy candidates have benefited from the ease with which voters can simply follow the dummy candidate's recommendations to mark their next available preference for the serious candidate that has instigated the dummy candidate's nomination.

Caretaker period

The Panel recommends that:

27. The State Government amend the *Local Government Act 1989* to codify good practices identified by the Local Government Investigations and Compliance Inspectorate to ensure clear and uniform boundaries for council decision making and activities during the caretaker period.
28. The caretaker provisions be expanded to suspend the issuing of non-essential council publications during the caretaker period.
29. The State Government remove the publication certification requirement placed on council CEOs during the caretaker period.
30. In order to ensure that councils are not adversely impacted by the new caretaker arrangements, the State Government look to amend legislation prescribing statutory planning timelines for local government to harmonise them with the restrictions on decision making during the caretaker period.

Do you support any or all of these recommendations? Why or why not?

No comment

Elections

The Panel recommends that:

31. The State Government adopt a uniform postal voting polling method for local government elections for 2016.
32. The timeline for receiving a vote by post be broadly aligned with that which applies for Victorian state elections; that is, votes may be posted on or before the last Friday of voting and received by the VEC within five working days after the close of voting.
33. The State Government establish a statutory role for the VEC to conduct all local government elections under the *Local Government Act 1989*.
34. The State Government establish a pricing and service provision oversight role, potentially assigned to the Essential Services Commission, to ensure that prices and service standards are kept to a reasonable level.
35. The State Government include complaint handling, investigation and prosecution functions in establishing a statutory role for the VEC to conduct local government elections.
36. The VEC, as part of the in-person nomination process, reinforce to candidates their obligation to familiarise themselves and comply with the offences framework as defined by the *Local Government Act 1989* and, in particular, to avoid actions that are likely to lead to breaches of sections 55A and 55.
37. The VEC, as part of its regime of briefings for candidates, encourage all candidates to undertake briefing sessions with peak bodies, designed to assist them to avoid behaviour that may undermine the standard of candidate conduct at the election or place them at risk of prosecution for breaches of electoral offences.

38. The VEC, as part of its statutory role, establish an advisory line for complainants, providing information to assist them in determining whether to proceed with a formal complaint.

Do you support any or all of these recommendations? Why or why not?

PRSAV-T Inc. supports a uniform postal voting polling method, as it results in a higher turnout, and provides more time for consideration by the voter, and more even-handed information to consider.

After the elections

The Panel recommends that:

39. The role of the VEC as prosecutions authority be formalised as part of its statutory role and that the VEC assume this responsibility for all aspects of the prosecution process, including prosecution for failure to pay fines for failing to vote.
40. The VEC adopt a policy for prosecuting failures to vote for local government elections consistent with the application of this function for Victorian state elections under section 173 of the Victorian *Electoral Act 2002*.
41. The State Government introduce a provision into the *Local Government Act 1989* to empower the returning officer (or the election service provider) to make an application to the Municipal Electoral Tribunal to initiate an inquiry into the validity of a council election, if necessary.

Do you support any or all of these recommendations? Why or why not?

PRSAV-T Inc. supports Recommendations 39-41 as they clarify and make more consistent the provisions involved.

STAGE 2 RECOMMENDATIONS

For more information on Stage 2, please refer to the Panel's Stage 2 report and discussion paper, available online at: www.dtpli.vic.gov.au/electoral-review.

Electoral structures

Proposed changes to legislation and ministerial direction

42. The Panel believes that the transparency and consistency of the review process and its outcomes would be improved through changes to the current legislative provisions and through the provision of a ministerial direction to guide the task of the review authority.
43. It is recommended that the legislation should provide for:
- an increase in the upper limit of councillors to 15 and the provision for councils to have six, nine, 12 or 15 councillors, based on a simple distribution against voter numbers according to the ministerial direction proposed in recommendation 44
 - continuation of the '10 per cent rule', which ensures that the councillor-voter ratio does not deviate outside of 10 per cent in any one ward from the average for that municipality
 - the inclusion of a new legislative trigger for the start of a representation review, where the review authority considers that the voter population has increased or decreased to such an extent that a change to councillor numbers is warranted
 - the discontinuation of the current practice of having 'mixed wards', where municipalities contain a mix of single-member wards and multi-member wards or a mix of non-uniform multi-member wards. In these municipalities, councillors in different wards face different quotas to be elected in the one council election. For those municipalities with both single- and multi-member wards, ballot counting systems also differ from one ward to the next. Under this recommendation, the

fairness and consistency of the system would be strengthened by ensuring that candidates in each council election in the one municipality would require the same quota to be elected. Furthermore, each elected councillor would come to council having secured the same minimum level of community support.

44. It is recommended that a ministerial direction provides for additional instruction on the following matters:
- the fixing of councillor numbers based on a simple distribution relating to the number of voters in a municipality as follows:
 - councils with 6000 voters or fewer would have six councillors
 - councils with between 6001 voters and 40,000 voters would have nine councillors
 - councils with between 40,001 voters and 130,000 voters would have 12 councillors
 - councils with more than 130,000 voters would have 15 councillors
 - the fixing of the timeframe to be taken into account in each representation review to ensure that electoral structures are designed to meet the requirements of the electorate for the next two general elections after the review. This would improve the consistency in modelling the options for community consultation purposes.
45. The Panel found that the consistency of the review process would benefit from the consistent application of an explicit range of considerations that are addressed in each review and that would inform the review authority's consultation. The Panel recommends that to inform the evaluation of which electoral structure provides the best fit for a municipality, the review authority should consistently apply the following considerations:
- communities of interest
 - municipality's population, growth and geographic dispersal
 - accessibility of councillors to the community.
46. The Panel recommends that the ministerial direction also includes guidance on the consideration of ward boundaries, based on factors contained in section 9(1) of the *Electoral Boundaries Commission Act 1982*, namely:
- area and physical features of terrain
 - means of travel, traffic arteries, and communications and any special difficulties in connection therewith
 - community or diversity of interests.
47. The Panel further recommends regular reviews of the ministerial direction to ensure, in particular, that the councillor number distribution remains appropriate over time in the face of significant population growth.

Community consultation

48. In undertaking a representation review, the VEC should continue its existing community consultation approach of:
- conducting preliminary consultations
 - calling for public submissions
 - preparing a preliminary report for public release containing:
 - the models (including maps) that were developed in meeting the legislated requirements
 - an explanation of how the boundaries of wards (for subdivided electoral structures) were developed
 - an explanation of the reasons certain electoral structures could not be developed
 - the VEC's analysis of the strengths and weaknesses of the respective models that were developed
 - calling for public submissions on the preliminary report and allowing any person who makes a submission at this point to be heard in person.

Submission of a final report

49. In completing a representation review, the VEC should also continue its existing approach of submitting a copy of a final report to the council and the Minister for Local Government recommending a preferred model not later than six months before the subsequent general election.
50. The Panel recommends that the final report contains an analysis of community feedback received and how the VEC has given regard to the feedback in arriving at its recommended model, as is the VEC's current practice.

Do you support any or all of these recommendations? Why or why not?

PRSAV-T Inc. supports Recommendation 42, as the reviewing authority has had something of the style of a Delphic oracle, and its total isolation, and relative lack of democratic input compared to the case of a Minister of the Crown, needs some tempering on occasions.

PRSAV-T Inc. supports Recommendation 43, as it allows variety, and provides [parity](#) among all the electors in a municipality - and its wards, if any - sensibly removing the present unfair and exploitable scope for lopsided ward arrangements, except that PRSAV-T Inc. submits that the lowest number of councillors should be raised by one councillor to 7 as that is a good size for at-large elections, and it avoids the unsatisfactory option of three 2-member wards.

PRSAV-T Inc. further submits that the recommendation should omit 2-member wards entirely, as the use of three of those for a 6-member council - or six of them for a 12-member council - would entail [stalemate wards](#) throughout in such councils, and would also entail both the quota, and the wasted near-quota of ballots that cannot elect anybody, each being unnecessarily high.

In relation to Recommendation 44, PRSAV-T Inc. supports the Panel's recognition of the need to prescribe a more satisfactory basis for the determination of the number of councillors in councils, but it considers that determining that number, within the upper and lower limits set by legislation, should be a matter for the electors and the local government in question, who bear the cost, and experience the benefits or otherwise, of a particular ratio of electors to councillors, rather than that being a matter a State government minister should determine. PRSAV-T Inc. supports Victoria's adopting "[Constitutional Referendums](#)", which resolve those matters democratically in Australia's most populous State, New South Wales.

PRSAV-T Inc. notes that, in Recommendation 44, the word 'voters' should be replaced with the word 'electors' throughout.

Voting and ballot counting

51. The Panel considers it important that the voting and ballot counting systems for local government elections are consistent with those used for federal and state elections to minimise voter confusion. In addition, being elected by the majority is an important feature of a fair electoral system. While first-past-the-post may make it easier for people to vote, it does not ensure that elected councillors in single-member wards have majority voter support.

Accordingly, the Panel does not support the introduction of first-past-the-post for elections in single-member wards.

52. The Panel believes that, should the State Government adopt the recommendations of the Victorian Electoral Matters Committee and introduce optional preferential voting for Victorian Legislative Assembly elections, it should also introduce it for voting in local government elections in single-member wards.
53. The Panel believes that if the Senate moves to a partial preferential voting system for those voting below the line, thereby making the voting system consistent with that of the Victorian

upper house, the State Government should also introduce partial preferential voting for local government elections in multi-member wards and unsubdivided councils.

Do you support any or all of these recommendations? Why or why not?

PRSAV-T Inc. strongly supports Recommendation 51 in its context of single-member wards. The sound reasons why Australia abandoned [first-past-the-post](#) counting in the 1920s have been vindicated ever since then. Voters were well able to manage preferential voting when it was introduced in the 1920s, and those now brought up with it are in a much better position. Computers have made counting of ballots much faster and more secure, and that will improve greatly in the future if internet voting is found to be secure for electoral use. Western Australia's State-wide partisan restoration and subsequent restoration again, [on two recent occasions](#), of first-past-the-post voting for municipal elections is a precedent to be avoided.

It is unlikely, given the opposition by the ALP and Nationals, that a Victorian Government will change from full preferential voting, but PRSAV-T Inc, rather than supporting Recommendation 52 - in its context of single-member wards, which wards it deprecates - does support partial optional preferential voting, as applies for [Tasmania's Legislative Council](#), as a measure to safeguard against the emergence of a *de facto* first-past-the-post system.

PRSAV-T Inc. opposes, for single-member wards, the open-ended nature of full preferential marking requirements (*which can force voters to mark preferences for a non-defined, potentially very large, number of obscure candidates that voters can know nothing about once there are more than about five candidates for a single position*). It also opposes the other extreme of an abdication of involvement in choices about more substantial candidates that is fostered by fully optional preferential marking in single-member wards, which can become a *de facto* first-past-the-post system.

PRSAV-T Inc. supports Recommendation 53, as it supports partial optional preferential voting.

Filling casual vacancies

54. The Panel recommends that the countback process for multi-member elections be amended to include the valid votes cast by all voters at that election to identify the next candidate to fill a vacancy, should it arise. The exception to this arrangement is the City of Melbourne, where candidates run as part of a team or group.

The legislation should also be amended to provide for a by-election when the replacement candidate declines or is ineligible or the vacancy is the second or subsequent since the previous election.

Do you support any or all of these recommendations? Why or why not?

PRSAV-T Inc. opposes the first paragraph of Recommendation 54 as it considers that replacement of the countback process that has been provided for filling casual vacancies in Tasmania's House of Assembly since 1918, in the Australian Capital Territory's Legislative Assembly since 1994, and in Victorian municipal councils since 2003, with the total recount process that has been provided for filling casual vacancies in Western Australia's Legislative Council would be a downgrading of the present method of filling casual vacancies. The present countback method is a [much superior method](#) to the total recount method because it properly confines the basis of the election of the replacement to the quota of votes that elected the vacating candidate at the original election.

The seat won by the vacating candidate was based on a particular quota of votes, so it is important to confine the count to that quota of votes if the balance and composition of the council originally elected is to be maintained, and not arbitrarily disturbed by the fact of a particular councillor's death or withdrawal as a councillor. The argument that the residual votes that were insufficient to form a quota at the original election should be able to be included as part of a new quota that might arise in a total recount misses the point that those votes did rightly not contribute towards deciding who any of the originally elected people would be, and should therefore, to preserve the stability, balance and representative nature of the council, not contribute to deciding who will be a replacement councillor.

The present Victorian approach keeps the same voters that elected the vacating councillor in charge of electing his or her replacements, whereas the proposal to move to the total recount method would allow some of those voters to be displaced by different voters, who had not voted for a successful candidate at the general election. That proposal would let the basis of legitimacy of the representative in place stray away from its original electors to a different group.

The mention of the case of "*... when the replacement candidate declines ...*" reveals a deficiency of the [Victorian approach](#) versus the much more soundly-based [Tasmanian approach](#) that needs to be remedied. In Tasmania the countback is confined to eligible candidates that have explicitly consented to being included in the countback, whereas in Victoria the countback is conducted with all former candidates being included, with the winner then being requested to consent to becoming a replacement councillor.

The procrastinating Victorian approach includes an undefined number of successive 48-hour periods granted to possible successive candidates revealed to have succeeded in a countback to ponder whether they want to accept a position. It should be replaced with the decisive Tasmanian approach here, and there could then be no such person as a "declining replacement candidate", because the replacement candidate would have explicitly accepted before the countback.

PRSAV-T Inc. strongly opposes the second and final paragraph of Recommendation 54, as a by-election for a single councillor position in a multi-councillor electoral district:

- would be potentially far more distorting for the overall balance of opinion on the council than any likely outcome of second or subsequent countbacks for a particular seat,
- would be more expensive and unnecessarily intrusive for voters, and
- could change the whole balance of the council depending mainly, and improperly, on the fortuitous circumstance of whether the particular councillor that had vacated the seat earned with a quota, like the other councillors for the single electoral district involved, happened to represent a group of voters that was in the majority in that district or happened not to represent such a group, without voters having any ability to vote on the positions of any other councillor.

Councillor allowances

55. In light of the concerns raised around councillor allowances, the Panel believes that the State Government should consider a review of councillor remuneration arrangements.

Do you support this recommendation? Why or why not?

No comment

Thank you for your feedback.