

**Submission
No 89**

**INQUIRY INTO THE CONDUCT OF THE 2022 VICTORIAN STATE
ELECTION**

Name: Dr Kevin Bonham

Date Received: 19 June 2023

**Submission to the Victorian Electoral Matters
Committee Inquiry into the 2022 Victorian State
Election**

Dr Kevin Bonham

Summary

The 2022 Victorian Legislative Council election again saw the use of the Group Ticket Voting system, although it has now been repealed in all non-Victorian jurisdictions and had created absurd results in the 2018 election. Although the election this time produced a parliament that is very representative of Victorian voters overall (but not of voters within the specific regions) this was a fortunate outcome that will not be reliably repeated. Furthermore Group Ticket Voting brought the election into public disrepute.

Reform remains necessary but an allied problem is that the division of Victoria into eight regions, each returning five members, is not ideally representative in a system where more than three parties/coalitions have significant electoral support.

This quick submission again calls for Group Ticket Voting to be repealed. It would be desirable for this to be accompanied by reform to increase the district magnitude of the upper house elections rather than continuing to use 8 regions of 5 members each.

Author background

I am a prominent psephologist based in Tasmania and with 35 years' experience in scrutineering and analysing a range of state, federal and local elections. I am also the author of a donation-funded blog-form psephology, poll analysis and political comment website located at <http://kevinbonham.blogspot.com.au/> . In this capacity, and on Twitter, I provided very detailed coverage of the 2018 and 2022 Victorian elections for both houses. I was extensively involved in the process leading to adoption of the new Senate voting system in 2016. This system was implemented to address problems at the 2013 Senate election that were similar in nature to those encountered at recent Victorian Legislative Council elections, especially 2018. I work professionally both as an electoral studies consultant but also and primarily in an area of science unrelated to elections. My doctorate was in the latter area, but my university studies included a Political Science major. I am writing this submission in a private capacity and am not a member of, associated with or strongly supportive of, any political party.

Recommendations

1. That group ticket voting for the Legislative Council be abolished by legislation passed prior to the 2026 election. This could either abolish it with effect from the 2026 election, or if necessary to secure parliamentary support from 2030.
2. That group ticket voting for the Legislative Council be replaced with a Senate-style preferencing method including semi-optional voter chosen preferences above and below the line.
3. That the 8x5 region system for the Legislative Council also be abolished and be replaced with a system with more members per region (and fewer regions), or with a single statewide electorate.
4. That if a referendum is necessary to achieve 3, it be held in conjunction with the 2026 election and receive clear bipartisan support in the interests of a better democracy for supporters of minor parties.
5. That the Inclusive Gregory system for surplus distributions be replaced with the Weighted Inclusive Gregory system.
6. That the Victorian Electoral Commission be required to throw all lower house seats to a full preference distribution as an official result and be resourced sufficiently to achieve this.

Group Ticket Voting and the 2022 result

The 2018 Victorian Legislative Council election was very unrepresentative, with several candidates winning seats they did not deserve based on either regional representation or statewide vote share and one party (the Greens) severely short-changed.¹ In 2022 the seat share results were actually remarkably close to proportional to the primary vote share, more so than would have been the case under a Senate-style system. Table 1 on the next page shows the seat shares won by the various parties compared to their vote share.

¹ See, eg, my 2018 election submission

<https://new.parliament.vic.gov.au/492c7d/contentassets/92d1f3496fd841b9ac6fa9911a337d9c/submission-documents/58.-dr-kevin-bonham-redacted.pdf>

	Vote%	Seats	Seats%	Prop
Labor	33.01	15	37.5	14
Coalition total	29.44	14	35	12
Greens	10.32	4	10	4
Legalise Cannabis	4.09	2	5	2
Labour DLP	3.51	1	2.5	1
Liberal Democratic	2.64	1	2.5	1
Shooters, Fishers and Farmers	2.05	1	2.5	1
One Nation	2.04	1	2.5	1
Family First	2.01		0	1
Derryn Hinch's Justice	1.53		0	1
Animal Justice	1.51	1	2.5	1
Victorian Socialists	1.39		0	1
Reason	1.25		0	
Freedom	1.06		0	
Sack Dan Andrews	0.83		0	
United Australia	0.83		0	
Health Australia	0.58		0	
Sustainable Australia	0.47		0	
Companions and Pets	0.44		0	
Angry Victorians	0.4		0	
Transport Matters	0.28		0	
New Democrats	0.21		0	
Non-party groups/ungrouped	0.11		0	

Table 1 Seats won and seat share compared to primary vote share. The “Prop” column shows the most likely proportional result if Victoria had a single-division 40 seat system using the Droop quota.

Lest anyone think this means the Group Ticket Voting problem has gone away, it is worth mentioning how it happened. Firstly, the appearance of rival preferencing networks meant that the “Minor Party Alliance” which won several seats in 2018 was less successful, winning only three seats (one of which may have been won anyway). The existence of multiple preferencing networks also made it harder for any party to succeed from extremely low vote shares. Thus in 2022 the lowest winning primary vote was 1.56% for Animal Justice in Northern Victoria and there were no other wins from less than 3%, whereas in 2018 there were three wins from between 0.62% and 1.32%. Secondly the tendency of group ticket voting to produce upset wins by parties that would not win normally counteracts what would otherwise be a tendency for the Greens to win seats in almost every region and hence become over-represented.

(Had the same votes been cast at the 2022 election under a Senate-style system I estimate that Labor would have won 16 seats, the Coalition 15, the Greens 6 or 7, the Shooters, Fishers and Farmers 1, one seat for one of Labour DLP, Victorian Socialists or maybe Reason, and possibly one seat for One Nation.)

There is no guarantee that the 2022 situation will repeat and that we have seen the last of seat wins from tiny vote shares. The appearance of a right-wing preferencing network at this election was partly a reaction to temporary COVID politics issues and such a network may be less effective in future if it continues to exist.

The tendency of Group Ticket Voting to produce winners with a few percent of the region vote is also bad for democracy because these winners are dependent for their future success on Group Ticket deal outcomes more than what primary vote they get. While the parties might be considered accountable to the voters in that the higher their vote the more chance they will win a seat somewhere, that doesn't apply so strongly to individual MLCs.

Group Ticket Voting is also a denial of the individual voter's ability to choose to easily distribute their own preferences at party level as they can do in the Senate. If a voter did this, their preferences after their #1 vote were thrown away and overwritten with the Group Ticket lodged for the party they voted 1 for.

Group Ticket Voting also featured in two significant media scandals, one surrounding the Animal Justice Party "ratting" on a preference arrangement with the "Minor Party Alliance", and one featuring the release via the media of discussions between the Angry Victorians Party and a well-known preference networking consultant. The latter illustrated my previous comments that Group Ticket Voting elects MLCs who are beholden to that system for their re-election and therefore will not vote against it for fear of being blocked from any chance of winning. Fortunately, at this election many of the minor parties who had success argued for the abolition of Group Ticket Voting and will have good prospects of winning seats if a replacement system that is representative can be found.

The challenge of reform

As a starting point, Group Ticket Voting should be abolished before the next election, or at worst abolished now with the abolition to take effect from the 2030 election (if such an outcome is a better way to obtain cross-parliamentary support). While simply switching to a Senate-style 8x5 system would be likely to result in over-representation of the Greens and under-representation of other minor parties, it would at least be the case that representatives of each region were being fairly chosen by the voters and were directly accountable to the voters in their region. Therefore such a system, while not ideal, would be preferable to continuing with Group Ticket Voting.

As recommended in my 2018 submission, if the Parliament was unable to abolish Group Ticket Voting, minor improvements could be made to the Group Ticket Voting system, such as:

- (i) Allowing voters to distribute their own preferences above the line as in the Senate, with Group Tickets used only for those votes that had only a valid 1 above the line and were not formal below the line
- (ii) Imposing a primary vote threshold such that parties that did not record a certain level of primary support in a region were automatically excluded and their preferences distributed.

These solutions would blunt the effectiveness of preference-harvesting methods but would not prevent them from being attempted with some success. It is better to simply get rid of Group Ticket Voting.

However, Victoria should also abolish the 8x5 division system and replace it with something else. Possible alternatives include:

- A single 40-member statewide division (like the system now created for Western Australia)
- A single 20-member statewide division elected half-in half-out as in NSW
- A smaller number of regions with more members in each (eg 4 x 10) – this would create more chances for minor parties other than the Greens to be represented

Whichever of these solutions is preferred the prevailing view appears to be that the 8x5 system is constitutionally entrenched and change would need to be taken to a referendum. There may be value in the Parliament commissioning detailed legal advice regarding whether the purported entrenchment of the 8x5 system had in fact been effectively performed. However assuming it had or assuming that the parliament chose not to go down that road, then a referendum should be held in conjunction with the 2026 election, with bipartisan support for a change to the Legislative Council's electoral structure to allow for fair statewide proportional representation for all parties with significant support. If it is necessary for Group Ticket Voting to persist for the 2026 election only as a transitional measure to give the best chance of such a referendum passing then I would consider that acceptable.

Inclusive Gregory

The use of the Inclusive Gregory system for allocating surplus votes (in which continuing votes carry the same weight in a surplus whatever their previous value) is an embarrassing undemocratic relic of the manual distribution age. It continues to elect candidates who would not have won using the correct Weighted Inclusive Gregory system (as used in WA) though in some cases it can defeat candidates who would have otherwise won undeservedly as a result of Group Ticket Voting deals. In the 2022 election the overweighting of Labor votes in surpluses caused the Liberal Democrats to defeat the Liberals in South-Eastern Metropolitan in a situation in which they otherwise would not have won, but also did likewise for the Liberals against Labour DLP in Western Metropolitan.

Full distributions

In my 2018 submission I called for the VEC to be required and resourced to throw all seats to a full distribution of preferences, even if one candidate polled over 50% of the primary vote or crossed 50% before the final exclusion. In 2022 the VEC has chosen to produce full distributions in the 39 seats where it was not required to, and this is useful in terms of modelling future results. (It also has a slight impact on the statewide two-party preferred vote which has dropped from 55.00% to 54.95% to Labor if the new distributions are included).

The fact that the new full distributions are for information purposes only, in contrast to the official results, creates an awkward situation in which there are official unofficial results that are more accurate than the official official results. It also creates anomalies such as Michael Piastri (Liberal) officially being the losing contender in Mulgrave, whereas in fact Ian Cook (Independent) made the final two, albeit losing by a greater margin.

Coverage of the results

Coverage of the results that may interest some members of the Committee was posted on my website. These may include some points of interest that I did not cover in this submission:

Lower House: Victoria 2022: Lower House Results, Poll Performance and Pendulum Tilt
<https://kevinbonham.blogspot.com/2022/12/victoria-2022-lower-house-results-poll.html>

Upper House: Victorian Upper House 2022: It's Still Not Real Democracy But It Is Funny
<https://kevinbonham.blogspot.com/2022/12/victorian-upper-house-2022-its-still.html>

An article regarding the recent final preference distributions is likely to appear in the next week or so as I write this submission.

Dr Kevin Bonham

19 June 2023

-