

**THE NATIONALS** *for Regional Victoria*

**SUBMISSION**

**INQUIRY**

**2014**

**VICTORIAN STATE  
ELECTION**

## **INTRODUCTION**

The Nationals commence their submission with the recognition that the logistics involved in successfully coordinating the Victorian State Election are significant. We commend Commissioner Gately and his team for the manner in which they fulfilled their responsibilities outlined in the Electoral Act 2002, during the conducting of 2014 State Election and the 2015 Gippsland South By-Election.

We bring to the Committee's attention four specific areas of the Election campaign and outcome we consider worthy of the detailed consideration. The elements are:

- Voter Intent
- Voter Accessibility
- Election Campaign Funding
- Scrutiny of Electoral Communications

The following pages examine a number of elements in each of these areas and propose a series of recommendations for your consideration.

## **VOTER INTENT**

The Nationals bring to the attention of the Committee our concern that the result of the Upper House election did not reflect the true intent of the voter in a number of regions throughout the State. The VEC have determined 93.92% of Victorian voters made a conscious choice to support a group voting ticket by voting above the line, in doing so these voters were actively choosing to support a particular party, rather than electing to support an individual by voting below the line.

The group voting ticket simplifies the voting process for voters and arguably lowers the number of informal votes in the Upper House. From the voters perspective numbering one box above the line is preferable to numbering a large number below the line. The Nationals support the concept of a group voting ticket providing voters with a simpler option, particularly in an electoral environment where the number of registered parties and consequently candidates standing for election in the Upper Houses has grown significantly. This leaves the voter to face the prospect of having

to allocate preferences for up to 98 candidates to cast a formal vote, as was evident on the 2013 Victorian Senate ballot paper.

Our concern is that the current system of group voting ticket preference allocation is not reflecting voter intent; rather it has been hijacked by paid preference harvesters working with minor parties. We maintain that the system is in need of reform and sight the example of the result in Western Victorian Region, where over 98% of the voters chose to vote above the line. Seventeen parties were registered in Western Region, four of these parties received under 2% of the primary vote. The party with the lowest primary vote, Vote 1 Local Jobs, with a vote of just 1.26%, reflecting a deliberate choice of over 98% of voters not to vote for this party, now sits in the Parliament, representing the voters of the Western Region. This is a very clear example that voter intent is not aligned with the election outcome in the Upper House.

The Nationals urge the Committee to reform the current system of Upper House voting with a system that provides voters with the option of a group ticket that enables their true intent to be reflected in the outcome.

There is logic in considering that a quota of primary votes must be received before preferences can be allocated to a candidate. Part 12, section 211, (3) of the Electoral Act 2002, stipulates that a candidate who receives less than 4% of the total number of first preference votes, is not entitled to payment. Yet the Act as it currently stands enables a person to receive less than 2% of the primary vote and be elected to the Parliament through preference harvesting. Surely this is a contradiction of the original intent of the Act, in recognising that candidates receiving less than 4% of the primary vote are not reflecting voter support to a level that the public should support the cost of their campaign. A second option would enable voters to preference parties, numbering from 1 to the required number above the line to exhaust preferences, or vote for candidates below the line and allocate preferences to exhaustion.

The Committee may wish to consider the merits of these and other options to improve and adapt the system to one that reflects voter intent.

### **Recommendation:**

#### **VI1**

Reform of the Upper House voting system to reflect voter intent be strongly considered by the Committee

### **VOTER ACCESSIBILITY**

The matter of voter accessibility is one that will become of increasing importance in the next two decades with the advent of an aging population. The Nationals, and as we understand all other political parties, have been contacted by Blind Citizens Australia (BCA) in relation to accessibility issues. Their concerns are valid and align with a number of those expressed within the Party's forums. It is worth noting that BCA considers that the current legislation prevents the VEC from complying with the Disability Discrimination Act, this may be a matter the Committee would like to investigate further.

Voter Accessibility covers a broad range of matters. The Nationals concern is with the following aspects of the topic:

- How To Vote Cards
- Early Voting
- Electronic Voting
- Venues

#### How to Vote Cards

BCA maintains that the current provision of How to Vote Cards excludes the blind community from receiving important voting information and that the VEC is prohibited from addressing the situation by the current legislation. The Nationals support their call to make voting information available to the blind community and invite the

Committee to investigate how voter information can be provided in other forms, including electronic and digital provision, and what consequential changes may be required to the legislation to enable innovation in the delivery of voter information on polling day and at pre-poll.

### Early Voting & Electronic Voting

The Nationals note 34.11% of voters cast their vote prior to polling day with more than 25% voting at pre-poll centres and we are aware that in some electorates the tally of voters at Early Voting Centres was more than 30%. The Nationals view the trend of increasing numbers of voters' casting votes over a two week period as one of concern. While we support flexibility and accessible options for voters, The Nationals note that the number of voters casting their ballot prior to the official polling day has grown three fold since 2006, effectively moving our State from a polling day to a polling period.

Section 98 of the Electoral Act 2002, prescribes who may apply to vote early. The growth in early voter numbers over the past three elections appears to be driven by voter convenience rather than increased numbers of voters finding themselves in the circumstances set out in the Act.

Our members observed that during the 2014 Election voters in regional early voting centres were not required by VEC officials to provide any reason for voting early. This calls into question the extent to which Section 98 is being applied.

In our submission to this Committee following the 2010 election we requested that Section 99 of the Act be amended to reflect an early voting period of five days. It is The Nationals contention that the period of early voting as prescribed in Section 99 is too lengthy and is undermining the integrity of the voting system. The Nationals respectfully ask that this Committee consider what impact this extended polling period has on the democratic process and whether that process would be better served by a shortened pre-poll period and an extension of options available to voters.

We note that the New South Wales' Electoral Commission has implemented the electronic voting system iVote over two elections now and that an independent assessment of this system has been undertaken. Whilst cautious of the adoption of electronic voting systems, The Nationals support the investigation of the adoption of new technology to provide greater accessibility for voters within a confined period prior to the election.

A consequence of the trend for voters to flock to early voting centres is that these centres are receiving up to 1/3 of the total number of votes cast in the election. All polling booths open on Election Day sort and count votes once the poll has closed.

In the 2014 State Election votes in Early Voting Centres were not counted until the Monday following the election. The volume of votes being counted is such that the process takes many more hours than it does in the largest polling booths on election night. This is not a satisfactory arrangement and it is our contention that votes should be counted when the poll closes as is the case in all other booths.

The Nationals respectfully suggest that Committee consider the following recommendations.

**Recommendations:**

**VA1**

Section 98 and the extent to which it should be adhered to by VEC officials be reviewed

**VA2**

Section 99 is reconsidered and amended to reflect a period of no greater than seven days for the operation of early voting centres

**VA3**

The counting of votes on election night must also include the counting of Early Voting Centres, and where the volume of votes at these centres is greater than 20% of the vote Sunday counting should be considered mandatory

#### **VA4**

Consideration is given to the adoption of an electronic voting system available in the seven day period prior to the Election Day to enable greater accessibility for voters of all abilities

#### **VA5**

Consideration is given to investigating ways for the VEC to provide information to voters using digital and other emerging technologies as an alternative to the standard How To Vote Card

#### Venues

The Nationals recognise the complexity and extensiveness of the logistical task required to locate suitable polling places throughout Victoria. We acknowledge the VEC's efforts to provide accessible voting centres wherever possible. Concerns have been expressed by our members that while accessibility features such as ramp were well considered, protection from the weather for voters and candidate supporters could have been given greater consideration. A number of stories have emerged relating to older voters who had to stand in line in the sun for extended periods where no shade was available, and were visibly affected by this situation.

The Committee may like to give some consideration as to whether this situation is likely to exacerbate over the next two or three elections and whether action is required to prevent it.

### **ELECTION CAMPAIGN FUNDING**

The 2014 Election campaign will remain marked by the impact third party campaign funding support had on the election outcomes. The reference to third party campaign funding does not relate to donations of individuals or individual enterprises to political parties, disclosure requirements provide the public with some level of openness and transparency in regard to donations to political parties by individuals.

The reference to third party campaign funding relates to organisations that are not

registered political parties, but obtain funds from members through fees and or donations that are tax deductible. These funds are subsequently used to mount extensive political campaigns with no requirement to disclose to the public their activities, or the amount they receive and then spend on political campaigns.

The union movement have been heavily involved in third party campaign funding in Federal and State elections for many years, most recently evidence provided to the Royal Commission on Trade Unions has revealed the public deceit occurring in relation to union fees and the allocation of them to funding political campaigns. Of equal concern is the emerging political campaign masquerade being conducted by particularly environmental groups and we refer the Committee to Submission number 469 to the House of Representatives Standing Committee on the Environment (2015), for a comprehensive insight on the level of public deceit that occurred from these groups in the 2014 State Election.

The Nationals concerns with third party campaign funding is the lack of transparency available to voters relating to who is actually behind the extensive political campaigns being waged upon the voters. Third party campaigns may spend hundreds of thousands of dollars on political campaigns collected under the guise of donations to charities or fees to workers unions, both tax deductible, both without the scrutiny or stringent disclosure requirements placed upon political parties.

The Nationals encourage the Committee to consider the issue of campaign funding reform. In doing so the Committee may like to review the models implemented in New South Wales and Queensland to assist them in their deliberations on possible models of campaign funding reform.

**Recommendation:**

**ECF 1**

The Committee looks closely at the matters outlined and considers the need for reform of electoral campaign funding.

## SCRUTINY OF ELECTION COMMUNICATIONS

Communication is an all encompassing concept that is best interpreted for the purpose of this inquiry as delivering a message to voters. The Nationals support a wide and comprehensive approach to election campaign communications, our concerns is with the increasing difficulty of applying Sections 148 and 156 of the Electoral Act 2000 consistently.

### False information

Section 148 (1) deals with false information and specifically relates to oral or written communication, Section 148 (2) deals with making statements that are false or misleading and Section 156 deals with distribution of printed electoral material.

It is The Nationals contention that the current legislation fails to deal with the power of visual messaging. Visual messaging was heavily utilised during the 2014 State Election and took many forms, it is our contention that a number of these forms relayed false information. A number of simple examples follow:

- Digital/social media comments and graphics (sharables, websites content) that were clearly false and could be argued to have been defamatory
- People dressed up and masquerading as fire fighters and nurses handling out literature at polling booths
- Photographs doctored and circulated via social media

While many will argue these are legitimate campaign techniques, there is a great deal of false information circulated in these formats and the Act as it stands appears to have limited if any power to address what is arguably the most powerful form of communication, visual messaging.

### **Recommendation:**

#### **SEC1**

The Committee give consideration to these matters and review and amend the Act as required.

## Public Sector Code

The Nationals conclude their commentary on election communication by raising their concerns with the inconsistency of the application of the Public Sector Code of Conduct. The Code of Conduct is well known and understood throughout the Public Sector, it is therefore disturbing to note our concern that the application of this Code was sadly lacking in a number of public service sectors during the election campaign and earlier. Of particular concern are the following:

- Victorian ambulances were used as political billboards for three years
- Public sector employees campaigned in mock uniforms to influence political outcomes

It is the contention of The Nationals that this constitutes unacceptable behaviour from public sector employees contravening the Public Sector Code of Conduct and we respectfully request the Committee to give consideration to these matters and determine an approach to prevent a reoccurrence of such conduct.

## **CONCLUSION**

The Nationals believe there is opportunity for the Committee to reform and amend the Act in a manner that will enhance our system of democracy through reform that will bring about:

- A closer alignment of voter intent and outcome
- The provision of greater transparency in electoral campaign funding
- Improvements to voter accessibility brought about through innovation and a reconsidered early voting process

We thank you for the opportunity to put forward our recommendations and look forward to your consideration of them. The Nationals would be pleased to expand upon this submission in hearings to The Committee.