

ELECTORAL MATTERS COMMITTEE

Inquiry into Victoria's Upper House Electoral System

Melbourne – Monday 19 May 2025

MEMBERS

Dylan Wight – Chair

Chris Crewther – Deputy Chair

Jacinta Ermacora

David Ettershank

Emma Kealy

Nathan Lambert

Sarah Mansfield

Evan Mulholland

Lee Tarlamis

WITNESSES *(via videoconference)*

Stuart Smith, State Director, Victorian Division, Liberal Party of Australia; and

Lyndel Feery, State Director, Victoria, National Party of Australia.

The CHAIR: I declare open the public hearing for the Electoral Matters Committee's Inquiry into Victoria's Upper House Electoral System. All mobile phones should now be turned to silent.

I would like to begin this hearing by respectfully acknowledging the Aboriginal peoples, the traditional custodians of the various lands each of us is gathered on today, and pay my respects to their ancestors, elders and families. I particularly welcome any elders or community members who are here today to impart their knowledge of this issue to the committee or who are watching the broadcast of these proceedings.

My name is Dylan Wight; I am the Chair of this committee and also the Member for Tarneit. The other members of the committee that are present with us at the moment are Chris Crewther, to my left, who is the Deputy Chair; Lee Tarlamis, to my right, who is a Member for the South-Eastern Metropolitan Region; as well as Sarah Mansfield, who is a Member for Western Victoria. I think we will have some others join us shortly.

I would like to welcome Stuart Smith, who is the State Director of the Liberal Party of Australia, Victoria division, as well as Lyndel Feery, who is the State Director of the Nationals, here in Victoria as well.

All evidence taken by this committee is protected by parliamentary privilege. Therefore you are protected against any action for what you say here today, but if you go outside and repeat the same things, including on social media, those comments may not be protected by this privilege. The committee does not require witnesses to be sworn, but questions must be answered fully, accurately and truthfully. Witnesses found to be giving false or misleading evidence may be in contempt of Parliament and subject to penalty.

All evidence given today is being recorded by Hansard and is also being broadcast live on the Parliament's website. You will be provided with a proof version of the transcript for you to check as soon as it is available. Verified transcripts, PowerPoint presentations and handouts will be placed on the committee's website as soon as possible.

How we may start, Stuart and Lyndel, is if you would both like to give some opening remarks for up to 5 minutes to the committee, we will then follow with some questions until about 1:40 pm, I would say. Fantastic. Whoever would like to start can fire away.

Stuart SMITH: Thanks. Lyndel, if you are happy, I might just start off first and then Lyndel will go next. Thank you to the committee for making time available and thank you for inviting us to address you about this matter. You will have seen, from the Liberal Party's point of view, that our volunteer party members have drafted a submission. That has been submitted, and obviously that was based on the discussion paper that our members formulated and submitted their views on. We want to thank you again for having that opportunity.

You would have seen that the areas of concern that the Liberal Party have raised in its submission are concerns in particular about any changes that would abolish regions, concerns to do with the lack of regional representation that would cause and the issues to do with accountability that that could cause. The significant deterioration of local representation is something that we would be concerned about if that were to occur. Also, some of the unintended consequences of some of the other models would be something that we would like to draw the committee's attention to.

In particular our submission made some comments about some of the structures. Structures 1, 2, 3 and 6 we believe would cause a significant deterioration in local representation. Then obviously we are concerned about structure 4, which would increase cost to the taxpayer. We also just want to point out that one of the concerns we have about lower thresholds for quotas is that what that may lead to is a fragmentation of politics and less continuity on issues across parliaments, as some people may be elected only once and then not re-elected. If that is happening too often, then that means the work of the Parliament can sometimes be substantially changed if there is such a high turnover of members not being elected.

We just want to point out that we believe none of the alternative structures that have been proposed address what seems to be the greatest issue of community concern, which is the gaming of group voting tickets. We do not see and have never seen any groundswell of support for the change of regions. The only community concern that I think it is fair to say we have ever detected in any serious way has been concern that the electoral system can be gamed. We have seen in other states and federally how sometimes those concerns have been addressed – in other states and in the federal Senate. I understand the terms of reference for this particular inquiry here, but I do note that I went back and had a look at the original findings of this committee from the 2022 inquiry, in which the committee said:

Group voting tickets may result in some above-the-line votes for the Upper House being distributed in ways that voters do not expect or want ... Group voting tickets also lead to distrust in the system ...

Obviously I understand the committee's view that it had then. But we do not see the structure of the upper house being an issue of concern in the community. I think the issue of concern more in the community may be that the electoral system can be gamed by people setting up parties as the feeder tickets, if you will, that may not be genuine. That could obviously – if that causes an increase in the size of the ballot paper – lead to informality and other unforeseen consequences, which we are concerned about. Thank you.

The CHAIR: Thank you, Stuart. I will just note that we now have Evan Mulholland, who is the Member for Northern Metropolitan Region. I believe we have got Jacinta Ermacora from Western Victoria and Nathan Lambert from Preston as well. We might move on to Lyndel for your opening remarks, if that is okay.

Lyndel FEERY: Thank you, and thank you for the opportunity to appear today on behalf of the Nationals in Victoria. Our party has proudly represented regional and rural communities in the Victorian Parliament for more than a century. We exist to ensure that the voices of regional people are not just heard but respected in the decisions made by the Parliament. Any discussion or decision about the structure of Victoria's upper house must consider that a quarter of the Victorian population lives outside metropolitan Melbourne, and they deserve fair and equal representation in our democracy. The current eight-region structure of the upper house has served Victoria well, and we do not believe there is a need for change at this time. The current structure provides accountability, balance and accessibility to local MPs. It guarantees regional representation and maintains clear links between members of the Legislative Council and the communities they serve, which we believe is practical and proven to work. The Nationals believe that changes to the upper house structure that result in the upper house being elected from the state as one electorate reduce regional representation and centralise the upper house to greater representation from Melbourne. Regional communities rely on their regional MPs to advocate on issues like infrastructure, health services, local economies and connectivity, because so often they do not get the same investment and support that the city does.

In the example structures that have been provided, we believe that structures 1 and 2 would fundamentally shift power towards Melbourne, which risks creating an upper house dominated by candidates who have little or no connection to the regions which they would also represent. We also believe that example structures 3, 4 and 6 would not achieve better outcomes in the electoral system. These example structures undermine the principle of communities of interest and would make it harder for regional communities to elect their own representatives. Just to reinforce our views, the Nationals would not support changes to the upper house structure that would dilute or diminish the voice of regional Victorians. We also do not believe there is an appetite for change among the public to the upper house structure.

I also just wanted to add, like other speakers today and like Mr Smith, our support for eliminating group voting tickets. I acknowledge the work of this committee and its recommendation for key reform from the inquiry into the 2022 state election that the government reform the upper house system by eliminating group voting tickets. The Nationals strongly support the immediate elimination of group voting tickets and a move to a Senate-style voting system that empowers voters to direct their preferences. As we wrote in our submission, the issues of the upper house, we believe, stem from the exploitation of the group voting tickets, not the structure of the regions or the number of members per region as has been looked at in this inquiry.

In closing, we support the current structure of the upper house to ensure regional communities continue to have a direct and relevant voice in Parliament. We are against changes that would centralise power in Melbourne at the expense of regional communities. Thanks for considering our submission, and thank you for the opportunity to present today.

The CHAIR: You are welcome. We might move on to questions, if that is all right. Evan, given that you just got here, you are welcome to ask one. But if you have not quite prepared yet, that is all right, we can come back to you.

Evan MULHOLLAND: Sure. Happy to kick off. It might be one for Stuart or Lyndel. In terms of the changes that have been canvassed, particularly with the wider statewide ticket – we have seen this in places like WA, which you might have experience with, Stuart, and New South Wales, which has a slightly different model but also a sort of statewide ticket. Are you a bit concerned that that might lead people into Melbourne in terms of the representation? Here we have got two or three members for Eastern Victoria, for example, that already live in Melbourne. Are you concerned that that might diminish that regional focus?

Stuart SMITH: I will jump in first, if, Lyndel, you answer afterwards. Thanks for the question. If you have a statewide electorate, it is not unreasonable that, for parties that want to put up a ticket, their leader is usually number one on that ticket. It is not unusual that party leaders might live in the capital city of the state that they live in, so one of those concerns would be that if we were to have a large number of tickets for a statewide electorate, a very large proportion of those would be led by people who were from Melbourne. At least under the current system you have got five regions in Melbourne, which makes sense. But you have got tickets being run in three country regions, and sure, those regions that might have particular and unique issues can have a local debate about those particular local and unique or regionally based issues. I am concerned that it could see a concentration in the number of upper house members coming from Melbourne.

One of the other concerns, particularly with structure 1, is that in the discussion paper it says that it may be difficult for voters to hold individual members of Parliament accountable for their performance if the quota was 2.4 per cent but you have about 1 per cent support and through a preference arrangement you may get to the 2 per cent required. Those particular issues to do with accountability are something that voters may be concerned about. Every member of this committee has been elected and understands what it is like to put yourself forward for public office, but with such a low quota it could make the continuity of Parliament more difficult but also may result in large numbers of candidates on the ballot paper.

In particular if structure 1 were implemented without a corresponding change to group voting tickets, we could have a tablecloth-size ballot paper occurring because of some of those unintended consequences. As we have seen, people have very openly admitted that they have intentionally tried to game the system. I guess a concern there is that going for a system without regions in particular but not considering group voting tickets at the same time would lead to unintended consequences, as those issues are very much linked.

Evan MULHOLLAND: It might be a question for Lyndel, just picking up on Stuart's point about accountability, particularly in some of those big regional areas. I know both the Liberals and Nationals love putting out different advocacy, asking people to go speak to their one Labor MP, for example, in Northern Victoria or Eastern Victoria and other places like that where they do have an office and physical presence. Do you have any concerns or have concerns about the lack of that sort of accountability and someone to go to? Obviously Labor is the party in government at the moment and people can go to, say, Harriet Shing's office or Tom McIntosh's office or Jacqueline Symes's electorate office and things like that currently. Are you concerned that that might be lost on a statewide basis?

Lyndel FEERY: Yes, definitely. Thank you. Yes, that is certainly one of our main concerns that we have in the current model – MPs that are accessible and accountable to the region that they represent. One of our greatest worries with having the upper house elected from the entire state is that there would be no guaranteed regional representation necessarily under that model. The problem for us with that is that regional people have very specific needs and problems and they need to be represented fairly and equally in the Parliament, and we just do not see how that regional representation can be guaranteed under structures 1 and 2.

Evan MULHOLLAND: This is probably a question for Stuart, just in your dealings with kind of the current structure but also having a background in this. Obviously we do not support group voting tickets, but can you just sort of reflect on particularly egregious examples that you have found on how people are gaming the system?

Stuart SMITH: From my time in WA, I was aware there was a member who was elected because of group voting tickets. I think he had about 88 votes or something like that, I think from the Daylight Saving Party or

something like that in WA, and because of group voting tickets something occurred that I think that members of the public, had they been more aware of the complexities, may have not intended. That is probably the example that comes to mind. I do remember – I was in high school at the time – the 1999 New South Wales election, for example, where they had the tablecloth ballot paper, and Antony Green was holding it up. It became a problem for – you know how they had the cardboard voting booths in there. The NSW Electoral Commission had to sort of double them, to expand the size so people could fill out the ballot paper because it was so large. If a ballot paper becomes so large because of people trying to game group voting tickets, that could increase informality rates. Therefore some members of our public may make an error or not have their voice fully heard, but also, as we have seen, there have been non-genuine parties intentionally set up, and sometimes through these not very well known preference arrangements we have seen some strange things occur that voters may not have intended to happen if they were aware of it. So yes, the WA case of that Daylight Saving Party and the 1999 New South Wales state election are both examples that come to mind.

The CHAIR: Thank you. I am just going to quickly pick up on one of those points, and it is about regional representation. We have heard varying degrees of evidence today as to what a voting system elected from one electorate would do. Is it not reasonable to expect, Lyndel, given your party, who it seeks to represent, the issues that it seeks to represent and where the Nationals voters are, that the Nationals in any given year will have four or five members of the upper house and they are going to be from regional Victoria? Stuart, by the same token, isn't it also reasonable to expect, given Liberal Party preselection processes and the fact that a fair chunk of local Liberal Party membership is outside of metropolitan Melbourne, that regional Victoria is going to be represented in the upper house by both of your parties regardless of what the structure is?

Lyndel FEERY: I will jump in. I think that even within the regional areas it is important that the upper house be broken up as it is now with northern, western and eastern, because even among the regional areas there are significant differences in how they are represented and what they are represented on. Even across the regional areas I think there are differences between the needs of people in western Victoria versus the needs of people in eastern Victoria. I think it is really important that the MPs that represent those regions are advocating for the industries that are in those regions and the businesses and the needs of the people and the service delivery that are relevant to that area, because it is not necessarily the same everywhere. So that is why I think the regions are important, because just even geographically we have different sectors in different parts of Victoria that need to have representation in the Parliament.

The CHAIR: Sure, and I do not discount any of that when you are talking about really specific regional or really specific representation to a particular part of Victoria, but I think the attempt – not by you guys – to develop a narrative that basically if we change the upper house voting system every upper house member is going to be living in Fitzroy North I think is probably a little bit too far.

Lyndel FEERY: Yes, I certainly would not suggest that that is what we are saying, but I would just more so say that we need to safeguard the regional representation a little bit through the use of the regions.

The CHAIR: Sure.

Stuart SMITH: Thank you, and thank you for your question about the preselection process. Yes, look, the internal preselection process is something that larger parties could do in particular. Something that both the Liberal Party and the Labor Party could probably do is build something in there to be our own internal version. That is certainly an option, although one of the things that is important to point out is that a change in the structure of the electoral system, in particular the removal of regions, could see a significant change in behaviour not only about how election campaigns are run in those areas but also about how election campaigns are reported on by the media and also the issues that are brought up in these election campaigns.

There might be a major issue in a particular region – I am just making up an example, but say transmission lines through western Victoria – and that obviously could become a political issue that could be for debate in a regional electorate election at a state election, but if we are in a statewide electorate, those issues may not be canvassed in the same way but also may not receive the same level of media coverage because the whole system has been changed. So we do see that if such a change were made there could be some real negative consequences for, for example, the people of western Victoria who might be concerned about transmission lines and want to have a localised debate about that amongst their candidates. For that reason we can see that that might be a good example of an unintended consequence.

The CHAIR: Sure. We will try and get two more questions in. We will maybe go to Sarah and then Chris. I am sure Chris has got a question that he wants to ask as well.

Sarah MANSFIELD: Thank you. Thanks for your submissions and your presentations today. I understand that in your evidence you have put forward a preference to keep the current structure while abolishing GVTs. But obviously you would have heard through this inquiry and seen through the submissions that there are preferences for other structures for the upper house that would require a referendum to change. Do you support linking the two things together and doing it all at once, or do you feel we can move on with GVT reform without having to wait for an opportunity to do upper house reform as well?

Stuart SMITH: I will just jump in briefly. It is our preference that you could move on with group voting ticket reform. We are of the view that we do not think that it is necessary to do any changes to the regions, and we are quite happy for it to remain as it currently is.

Lyndel FEERY: I would agree with Stuart. I think we can move on with the elimination of the group voting tickets and see what happens, and then if necessary, the structures can be considered after that.

Sarah MANSFIELD: Thank you. There has been a bit of discussion about what an acceptable quota is to earn representation in the Parliament. There have been different discussions about what proportionality looks like and how you balance that against an overly fragmented Parliament. In your view, what would you say is a fair quota?

Stuart SMITH: I will just jump in and say I am sorry, I have not given a great deal of thought to that. I understand there might be differing views on that. I cannot offer up a particular number; I have not given enough thought to it. But obviously our concern would be that if it were too low, you would have such a proliferation of so many parties that legislating would become difficult and legislation would stall. That obviously would not be in the public interest, and so for that reason we do not think that the quota should be so low that it would cause legislative difficulty. It needs to be at an acceptable level that would allow some diversity but at the same time ensure that the business of government – any government; it does not matter who is the government of the day – and the business of the people can continue.

Lyndel FEERY: I agree with Stuart's statement.

Sarah MANSFIELD: Okay. Thanks very much.

The CHAIR: Thank you. We have got time, I think, for one more. Chris.

Chris CREWITHER: Thanks, Stuart, and thanks, Lyndel. I may be adding to what Evan has already said, but in the lower house there are many more Melbourne metro members than members across Victoria, meaning that Melbourne interests could be prioritised before regional interests if you just had the Assembly. Similarly in the Australian Parliament, states like Victoria and New South Wales could be prioritised by having more members, but that is balanced out by each state having 12 senators, including, say, Tasmania. Would you argue that the current regional system in the Council at the state level helps to counterbalance the current situation in the Assembly?

Stuart SMITH: I think the ACT and Northern Territory only have one house, and so does Queensland, but at least four of the other five states have a similar sort of upper house electoral system to the federal Senate. It seems to be working well, and the reason why the federal Senate was set up the way that it was was so that more populous areas could not dominate the less populous areas. The framers of the constitution felt that was something that was a public good, one house being population based and one house being more geographically based; they thought that bicameral nature would be a public good. I see the system working well in Victoria, as it does nationally, and for that reason I think that it is an appropriate balance and do not see any reason to change it.

Chris CREWITHER: Just adding to that, do you think that the current system still potentially favours metro interests by there being five largely metro regions and three largely regional regions? And what would you say on an alternative proposal, say with 11 four-member regions of eight lower house MPs as against the current eight five-member regions of 11 lower house MPs?

Stuart SMITH: I am not terribly concerned about the current five versus three. If there are five for Melbourne and three for outside of Melbourne I am not too concerned, because Melbourne does have, obviously, significantly more population. But I do see the three current regions as being vital to ensuring that people living in those areas are able to have an electoral system and a debate and a discussion that suits them and ensures that representation occurs for them on issues that matter to them.

Chris CREWTHER: On the second part, with moving to, say, 11 four-member regions of eight lower house MPs, which would mean 44 in total instead of 40, would that be something worthy of consideration?

Stuart SMITH: Lyndel, I do not know about you, but that is not one that was in the discussion paper, so I have not given it a huge level of thought. I would probably have to think about that a bit more.

Lyndel FEERY: I would just add that we probably would not support an increase in members in the upper house. You are suggesting there it would go from 40 to 44. Is that right?

Chris CREWTHER: Yes.

Lyndel FEERY: I just maintain that we would like to stick with the status quo.

Chris CREWTHER: Thank you.

The CHAIR: You are welcome. Does anyone else have a question – even if you have already asked one?

Chris CREWTHER: Can I ask one more?

The CHAIR: You can do what you want. We have got about 5 minutes.

Chris CREWTHER: What is your view on optional preferential voting in the upper house, with or without above-the-line voting?

Stuart SMITH: Good question. Optional preferential voting was brought in in the federal Senate ahead of the 2016 federal election, and there was a discussion and a debate at the time about whether or not it would work. But it seems to have been working reasonably well, and most participants seem to be happy with it. The reason why is that optional preferential voting on upper house tickets gives control of preferences back to the people. It makes it easy to allocate your preferences the way that you want to do it. The problem with the old group voting ticket – and I remember this from my younger days – was that the group voting ticket had to be sorted out by some poor staffer sitting there till, you know, whatever early hours of the morning trying to put it all down and write it all out. It really was – and I do not mean this in a bad way – at the control of the parties.

The old system used to be, ‘1 above or number all below’. If there are 110 people below and you are trying to number 1 to 110, it is very easy to make mistakes and make your ballot informal. Most people obviously would take the convenience of putting 1 above for their preferred party. Under optional preferential, one of the proposals could be that if you abolish group voting tickets and the ballot paper instruction have ‘vote 1 to 5 above’ or a suitable number below – I do not know what the exact amount is – it would be very simple for people to be able to allocate their preferences in the way that they wished and were happy with.

In particular there is also a savings provision at the Commonwealth level, where even though the ballot papers at Commonwealth level say, ‘number 1 to 6’, if somebody just numbers 1, that will still count for the whole ticket and make sure that that person’s voice is heard.

So yes, we would be very happy to have a look at an arrangement for optional preferential, because it would be similar to what is currently occurring in the federal Senate, which people are quite familiar with now. I think we have now just had our fourth election – 2016, 2019, 2022; yes, now our fourth election – with the system, and I think that, as it is working well, it is definitely something that this committee could have a look at to introduce something similar in Victoria.

Chris CREWTHER: Thank you.

The CHAIR: Thank you. I am just conscious of time, so we are going to have to leave it there. Thank you, Stuart and Lyndel for appearing. Thank you for your submissions and coming to give some evidence. If you

have got anything more to add, please just email through to the committee at a later date. Thank you very much.

Witnesses withdrew.