

ELECTORAL MATTERS COMMITTEE

Inquiry into the 2025 Prahran and Werribee By-elections

Melbourne – Friday 20 June 2025

MEMBERS

Dylan Wight – Chair

Chris Crewther – Deputy Chair

Jacinta Ermacora

David Ettershank

Emma Kealy

Nathan Lambert

Sarah Mansfield

Evan Mulholland

Lee Tarlamis

WITNESS (*via videoconference*)

Stuart Smith, State Director, Victorian Division, Liberal Party of Australia.

The CHAIR: I declare open this public hearing for the Electoral Matters Committee's Inquiry into the 2025 Prahran and Werribee By-elections. All mobile telephones 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 are gathered on today. I 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.

I am Dylan Wight, the Member for Tarneit and the Chair of the committee. Next to me I have Christopher Crewther, who is the Deputy Chair and the Member for Mornington; I do have Evan Mulholland, Member for Northern Metropolitan Region – he has just ducked out briefly; online we have got Jacinta Ermacora, Member for Western Victoria; Sarah Mansfield, also a Member for Western Victoria; Nathan Lambert, the Member for Preston; and Lee Tarlamis, Member for South-Eastern Metropolitan Region.

I would like to welcome Stuart Smith, who is the State Director of the Victorian Liberal Party, to give evidence.

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, you may not be protected by the same 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 broadcast live on the Parliament's website. The broadcast includes automated captioning. Members and witnesses should be aware that all microphones are live during hearings and anything said may be picked up and captioned, even if said quietly. You will be provided with a proof version of the transcript 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.

Stuart, we will invite you to give a brief overview of your submission, and then we will ask you some questions until about 10:30.

Stuart SMITH: Thank you, Chair. Thank you all for the opportunity and making time to hear us today, and thank you for considering our submission. I appreciate the opportunity to be here.

Unfortunately, there are a number of issues that have arisen out of the Prahran and Werribee by-elections that I would like to address today. These by-elections were not shining examples of democracy in action. They were afflicted by low turnout and the failure of processes that are designed to protect the integrity of our elections. What is most concerning is that these failures seem to have occurred, at least in part, because the VEC is not appropriately prioritising its core responsibilities. For instance, they have admitted that their own training materials incorrectly instructed voting centre managers that it was appropriate to allow all count staff to have meal breaks after the close of voting at 6 o'clock and to not start counting the votes then. This directly contradicts the law in the *Electoral Act*, which says the phrase that 'Immediately after 6 pm on election day' the counting should start, and it obviously led to a delay in commencing of the counting at seven of the 11 polling booths in Werribee. We had seven scrutineers who were kept outside at five locations, and at one of those polling booths, at Riverbend, a seal was broken whilst the scrutineers had been kept out of the room and the ballot papers had started to be sorted on the counting table while scrutineers had been kept out of the room. They had actually been told that they had to go into a side kitchen, I believe for 'safety' reasons, but then the vote counting had started without them present, and regretfully – and I will get to this in a moment – that is not what is reflected in the VEC's submission. It is concerning that these failures have arisen at a time when the VEC is attempting to expand its responsibility beyond its core obligations in the *Electoral Act*, like counting of the votes at 6 pm, like allowing scrutineers to witness all aspects of the vote. Instead they are wanting to expand what they are doing outside of polling booths but are not able to meet their core obligations inside the polling booth.

I just want to make a few comments on the VEC's submission. We raised a number of our concerns about impartiality of VEC officials in Prahran in particular on election day. We made a complaint about two polling place managers at two polling booths because of comments that they had been making publicly, critical comments about some of the Liberal Party's messaging. There was an acknowledgement at one polling booth that this occurred, but there was just a total denial by the VEC that it occurred at the Our Lady of Lourdes polling booth, despite a number of witnesses seeing it. Like all parties, like the Labor Party and other parties represented, we have volunteer members who stand there unpaid, and they might be there all day; they might coordinate our volunteer roster. These people have no reason to report to us the actions and commentary of VEC officials. They do not just stand there and go, 'What can I make up on the day? I'm giving up my day to participate in democracy.' The fact that the VEC has denied what was very clearly reported to them to have occurred at the Our Lady of Lourdes polling booth and the inappropriate behaviour of the polling place manager there is really disappointing.

Instead of an apology for clearly inappropriate comments made by VEC officials, without ever raising this with us, we had an admission from the VEC that all of our signage was correctly authorised. We had an admission from the VEC that we had the right number of posters. They just did not like what was written on it, and then they decided that they wanted to say that they believed it was misleading and that they believed that there should be some change to the Act. This has only come out months later through a submission process, but at no stage have they ever raised any concerns with me at any time. In fact they have they have admitted that the messaging was correct, and they did not seem to take any objection to similar messaging from another candidate in Prahran that said, 'Usually vote Labor? Make sure you put the Liberals last.' Now, there was no concern raised about that, so I really do have to express concerns about the impartiality of the VEC wanting to only criticise Liberal messaging, not criticise other similar messaging from any other candidate or party, but also not to even raise any of these concerns with us other than via a public submission in which they gave apparently false information.

Further, I just want to identify something that the VEC put in their submission about the campaign registration trial. In particular they claim that they did not know any concerns of the Liberal Party until they read about them in the media. I sent an email to Liberal parliamentarians, which subsequently ended up in the media on 29 January. In their submission they seemed to be complaining about the fact that they said that they had never heard from us before early voting started – except on 28 January the VEC wrote me an email that said:

Our apologies for the time of this email. We were keen to get back to you before early voting commences for the by-elections tomorrow.

They wrote me correspondence saying 'We were keen to get back to you before early voting commences', but they tell this committee that we never contacted them prior to early voting and the first time they heard there was a problem was after early voting had commenced. They have quite literally given false information in their submission about us, which is something that is eminently provable by the timestamps on the emails. I am not sure why they have chosen to be so aggressively false, but it really should be a concern to this committee that they want to give commentary about a matter that is very easy to determine by the correspondence. Given that the commission has said that they spent about \$4 million on this by-election, I find it extraordinary that they could not even check the timestamps on their correspondence back to the Liberal Party.

I mentioned before the Riverbend scrutineering incident. The day after the election I had two scrutineers at Riverbend in Werribee, and they told me that they had been kept in a side kitchen area. What they said was that the scrutineers had to relocate from the gymnasium, the polling area, to an adjoining kitchen area within the building, and this was explained as a security measure to protect the ballot papers. At 6 o'clock the scrutineers were told that to protect the ballot papers the scrutineers had to be removed. Then at about 6:15 pm they were finally called back into the gymnasium, and for one of the ballot boxes the seals had been removed and the staff had already started emptying the ballot box contents onto the table and had started to sort them. When our scrutineers questioned this the response was, 'Whoops, I am new at this job' – except then we had the report of the VEC saying that:

This is inconsistent with the information we have ... We note that this is a subtle distinction ...

They do not raise this at all, and it appears that they just do not think that there was a problem here. We literally had seals cut and ballot boxes being opened and ballots starting to be counted, with scrutineers kept out of the room even though they were next door in the kitchen. Obviously that should be a concerning thing for every party, because on the night of the Werribee by-election I was inundated with concerns from scrutineers that

they had been kept outside of polling booths after 6 o'clock. But in particular it was not just Liberal scrutineers. We received reports that there were a lot of scrutineers from all parties who were concerned that they were just being locked out, and it happened at a number of polling booths. I am pleased that the VEC have admitted that this did happen in at least some cases and that that their training materials were the cause for the incorrect procedures which led them to breach the *Electoral Act* on multiple occasions. I am pleased that that did happen.

Another area of concern I would like to raise is, again, the adversarial nature of the way in which all party workers, all campaign volunteers for all parties, are treated by the VEC. I had a recent very positive experience with the federal AEC when I was out scrutineering after the federal election, in which the divisional returning officer came up to everybody and thanked us all for being there. He actually went through just a couple of quick examples of how and why he was grateful that we were there – that he thought that we aided and assisted the democratic process, that our observation helped them to make sure that they got things right and that if we picked things up early it helped them down the track with the reconciliation process. He said that he was really pleased that we were there and stressed how important we were to the democratic process. Yet we just seem to be told by the VEC that we need to be locked out of rooms for security purposes. The AEC thanks us for being there; the VEC tries to keep us out.

But this even extends to other areas. They say that the campaigner register trial was about OH&S, but this was a summer by-election in which people were standing outside in very hot conditions. We have had reports that sometimes when people asked if they could just fill up their water bottle from a tap or 'can I please use the toilet?' they were told they were not allowed. Claims of being concerned about OH&S when you are not even letting people use toilets or not even allowing people to fill up a water bottle – I really would question if that is what the VEC really want to say is their priority. All of us, all of our parties, have volunteers who are unpaid. If they are standing outside in summer, I think that all party volunteers should – as taxpayers, as citizens, as people who are trying to assist democratic process – have such basic OH&S requirements met. That is something that hopefully the committee can have more of a look at.

I will just finish up on this last point: about \$324,000 was spent on advertising the by-elections. The VEC admits in its submission that it did not have email addresses or phone numbers for about a third of the electorate. They sent an email and an SMS to about two-thirds of the electorate, and for about a third they did not have electronic contact details. Instead of writing them a letter, they decided to spend \$324,000 advertising on radio, advertising in the *Herald Sun* and doing mass, bulk, Melbourne-wide and sometimes even statewide advertising. But they did not actually contact one-third of the voters within the two electorates that had to vote. I am a voter in Prahran, so I got the SMS, but the email that I got went to junk mail. I did find it and fish it out. But if they are saying, 'We sent an email,' a lot of people would have got those emails potentially caught up in spam filters. In a situation where they admitted that they did not have contact details for at least one-third of the electorate, those people were not contacted in any way by the VEC other than through some mass advertising that obviously was not good bang for buck. It would have been much cheaper for the VEC just to send a letter to the one-third of the electorate they did not have contact details for, saying 'You have to vote, and here's where you can vote.' It just seems an extraordinary waste of money advertising across the whole state when they could have simply sent a letter to people that they did not have contact details for. I agree with the Labor Party's submission that mailed letters should be sent to voters to let them know about a by-election coming up. Thank you for your time, and sorry if I went over time.

The CHAIR: No problems. Thank you, Stuart. We might go to Evan Mulholland for the first question.

Evan MULHOLLAND: Thanks, Stuart. I want to follow up particularly on what you were just talking about in terms of mail in advertising. The VEC at a previous hearing came up with the excuse that they did not send mail anymore because mail is on the way out and they were aligning themselves with the Victorian government digital strategy, which was moving away from mail. Do you think an independent electoral body like the VEC should be following orders from government? And do you think there is still a place, as there is federally, for letting people know about by-elections, in particular, via post?

Stuart SMITH: Thanks. Sorry, I just dropped out a bit. I think I got most of that, Evan, but pull me up if I miss anything. You asked about mail and about government directions and a few other things. I found it extremely curious in the Warrandyte by-election that the VEC admitted that they did not have email addresses or phone numbers for half of the electorate and that they thought that advertising on radio in Geelong was a way to get people in Warrandyte to vote. They actually even started putting out comms materials saying things

like, 'People don't check their letterboxes as much anymore, so therefore we've decided to advertise in other ways' – advertising on radio in Geelong. I am pretty sure over the course of a five- or six-week period most people in Warrandyte would have checked their letterbox at least once.

The other thing that is really contradictory is that the VEC sends, if you don't vote, the VEC will send you a fine in the mail. So they will not send you a letter to tell you you have to vote, but they will send you a letter to tell you they are going to fine you because you did not vote. It is very curious. I do note that the Labor Party did say in their submission that they recommended that the VEC engage in direct mail, and I agree with them, because if you are a citizen and you get something that has your name on it sent to you personally, there is a higher likelihood that you are going to open, respond and react to that than there is if there is something on the pages of the *Herald Sun* print edition. In particular, the suggestion that people do not use mail anymore; well people are always online shopping and getting parcels and parcel notices and all those sorts of things. People are very familiar still with the postal service, even if they might not use it for letters anymore because they use emails and other things. But I do believe that more people check their letterbox at least once a week than would pick up a paper copy of the *Herald Sun* once a week, so therefore there is still a lot of value; we continue to see, especially with the federal election, the rise in popularity of postal voting. So the VEC seems to be going against all of the evidence by suggesting the opposite.

Evan MULHOLLAND: No worries. And do you think the VEC took your complaint about partisanship seriously?

Stuart SMITH: No, not really, because we had an apology for one of the polling places – I made two complaints on election day about partisan behaviour by VEC polling place managers. I received an apology for one; I did not receive a response to the second one, which was at Our Lady of Lourdes in Prahran. It was only later on that I found out in the submission that they had just denied it ever happened, even though we had several witnesses. So no, I do not think they took it very seriously, and if all you have to say now is, 'Oh, it never happened, I didn't do that, case closed', obviously it is a concern. The Labor Party made a complaint which you all know about, and I think it was reported as well about an election official in Werribee, but a media release was put out for that. I made two complaints on election day, nothing happened to my complaints, but in the case of another complaint, a media statement was put out. I am concerned that a media statement can be put out in one seat but then two complaints that I make, one of them just was not responded to at all and the other one was an SMS 'Oh, sorry'. So no, I do not think we were treated equally there.

The CHAIR: Thanks, Evan. I might go online to Lee Tarlamis.

Lee TARLAMIS: Thanks, Chair, and thank you, Stuart, for your submission and for participating in the EMC's inquiry. Again, you are always willing to come and talk to us and we value all your input. I just want to talk briefly about the registration of party volunteers process. In your submission you say that the Liberal Party:

... objects to an unnecessary requirement for registration of volunteers, especially when that requirement attempts to limit democratic participation, and has been raised in a rushed and arbitrary manner.

You also recommend that in future elections there should not be a requirement for party candidates or volunteers to register. I think we can all acknowledge that the trial that was attempted to be rolled out could have been done a lot better, and there should have been more consultation before running. But can you see any circumstances where the Liberal Party would support a registration process that has clarity about what its intent and purpose is and assurances around collection of that data, storage of that data, and when that would be deleted and things like that?

Stuart SMITH: Thanks, Lee. And thank you very much, I appreciate this opportunity. The concern we really had about this was that we were told in I think December of last year that there was going to be a trial. Obviously we were told at the time it would be a voluntary trial, and that was just before Christmas. But at 4:20 pm on the Friday before early voting started – which was 4:20 pm before the Australia Day long weekend, so quite literally there was only one business day in between when they put this communication out and when early voting started – they sent out a circular for Prahran, the VEC did, and quite literally the circular said 'the VEC requires all campaigners to register'. So that came out, you know, the Friday before a long weekend. The Tuesday after the long weekend, I wrote to the commissioner expressing concerns about that, and I just kept getting sort of shifting responses and confused communication. We received reports afterwards that it was compulsory.

I know we might have differing views on this, but there will be circumstances where people who are volunteering their time, citizens who want to participate in a democracy, may not want to give their name over for various reasons. It could be that they might be a friend or family of the candidate who might not want to be publicly associated with the Liberal Party, for example. They might be somebody who works in the media industry or some sort of public-facing industry who may not want to be giving over their details. There might be a reason why people may not want to participate, but the communications from the VEC were that it was – even though they said it was a trial, they were saying the VEC requires all campaign agents to register. Then our people were being told on the first day – the VEC were walking out to people saying, ‘You are required to do this.’ If it were compulsory, I can just see there would be reasons why we would be very concerned about that. If it were voluntary and there were enough assurances about the deletion of data and other things, I think there could be circumstances where we do, but one thing that I do really object to is the public identification of people who registered or did not register via public wristbands. I think that that is something we just cannot support. If there is a voluntary registration scheme and people can register and they are not publicly identified if they did or they did not, I think we could probably agree with that. I do not see any major concern with something that is voluntary, but the moment that it becomes compulsory and the moment that you are publicly identified, I think those are the two concerns that I have. We would be happy to work with people about looking at a way that it could work, but I just think we need to make sure that those two things do not happen.

Lee TARLAMIS: I think potentially like a system where you could either register through a political party or individually in your own right through a portal but did not necessarily have to say who you were handing out for, with all those sorts of data protections in place – because the concept behind this was around it being a tool to manage behaviour on polling booths so that if people have registered, similar to the scrutineer process, and then an incident occurs you can actually then remove that person and not have them return to another polling place or another electorate, which we have seen on occasion as well. I think there is a lot more work and discussion that needs to go into kind of establishing a system that may work better. But thank you for your feedback on that. Thank you. That is all I have got.

The CHAIR: Thanks, Lee. Sarah, do you have any burning questions?

Sarah MANSFIELD: Thank you. The only question I would just be interested in is you reflected on the low turnout, and Rachel Westaway as well raised that earlier this morning, you mentioned postal alerts to let people know that a by-election is happening: what about some form of direct registration where you link it to some other thing where your address might be updated, for example, when you are lodging your bond for a new rental property – if there was a way of kind of linking some of that information and ensuring that the electoral roll was also updated at the same time, would you support a system like that?

Stuart SMITH: Look, I think there is there is certainly merit in that. I am 41 years old, but I like to get things via email rather than post as well. So you can link it to people’s drivers licences or rental bonds or something like that. That might be a way of helping to link government data to the electoral roll, and I think that there could be merit in that. Obviously you would want to have a look at that a bit more to check privacy concerns and other things, but whilst voting remains compulsory – if we believe that voting should be compulsory – then we do believe that the VEC should be trying to communicate to voters about their obligation. The more communication that they are able to do, the better, because if we are going to fine people for not voting, we should at least try and tell them they have to, so I would be happy to look at that. Obviously there could be some privacy concerns and other things about the security of data, but they could be worked through. But anything that encourages participation is a good thing.

Sarah MANSFIELD: The only other thing I would just ask is: particularly with the Werribee by-election, there was a very short timeframe between the turnaround time to get a how-to-vote card printed prior to pre-poll. It was not as much of an issue for Prahran, as far as I understand, but I am just wondering if that is something the Liberal Party experienced.

Stuart SMITH: Yes, we did. The reason for that, though, I understand, was that Sam Hibbins resigned in late November and I think the resignation of Tim Pallas came quite late. Therefore there was a week’s difference. The Prahran ballot draw was a week earlier than it was at Werribee, so we had more time to turn things around. We had our artwork ready, dropped the numbers in on the Friday afternoon and then sent it off to print. I think we lodged it for delivery or something shortly afterwards. It was more difficult to get our how-to-vote information out in Werribee than Prahran because of that extra week, but I do understand that the VEC

was in that constraint because Mr Pallas had not put his resignation in as quickly. When Sam Hibbins went out, if Tim had maybe put his in a week later or something, it could have all been done on the same date, but I understand that was just held up by Mr Pallas's decision.

Sarah MANSFIELD: Thank you.

The CHAIR: Thank you, Sarah. Thank you, Stuart. We are going to have to leave it there. Thank you for the submission. If there is anything more you would like to add, please just send it through.

Witness withdrew.