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Preface

Given the very narrow range of changes proposed in the position paper the legislation text changes documented in this submission are limited. In this document the highest priority changes are the elimination of the Donkey Vote bias in Local Government elections, secret ballots for Mayors and Deputy Mayors, plus removal of the Attendance Election option. Lower priority changes in this document appear to be outside the consideration of the 2019 review so legislation text changes have not been included.

Calculations performed by Dr. S. Grose, Bachelor of Economics (Hons), Ph.D. (Monash University) of **Probability** (p), **Expected Probability** (E_p) and **3 sigma** (3σ) for an included graph and associated summary table are noted in footnotes where appropriate.

Any hyperlink or Uniform Resource Locator (URL) referencing Internet located documents or websites were correct at the time they were embedded or initially referenced in this document. Due to changes beyond the control of the author all hyperlinks and URLs are not guaranteed to remain valid or usable.

This submission has not been reviewed and the author is responsible for any and all calculation, statistical, interpretation and typographical errors. The author is also responsible for any errors or discrepancies created when calculation results were truncated or copied into this document. Best efforts have been made to ensure accurate references and statistics have been provided.

The [Local Government Act Review - Local Government Bill 2019](#)¹ web page does not request references to the Exposure Draft version therefore clauses from the [Local Government Bill 2018](#)², amended version 581079bab1 are referenced.

1 Local Government Act Review - **Local Government Bill 2019** web page:-
<https://www.localgovernment.vic.gov.au/our-programs/local-government-act-review>

2 **Local Government Bill 2018**:-
http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/PubPDocs_Arch.nsf/5da7442d8f61e92bca256de50013d008/ca257cca00177a46ca2582950078a5e6!OpenDocument

2019 Local Government Review Limitations

The 2019 review of the Local Government Act as proposed is an initiative that currently ignores obvious flaws. Analysis of a significant problem related to Donkey Vote bias in Victorian, Local Government elections is being reported for the first time. Therefore the lapsed [Local Government Bill 2018](#)³ could not and did not address Donkey Vote bias.

Past analysis and literature concerning Donkey Vote bias in Australian elections is not applicable to current Victorian, Local Government election practices. Previously reported [Victorian Electoral Commission](#)⁴ (VEC) analysis has followed the conventions and techniques adopted by the [Australian Electoral Commission](#)⁵ (AEC) for federal elections. Because there are significant differences between Federal, State and Local Government election practices the past analysis has underestimated the Donkey Vote bias in recent Victorian, Local Government elections.

As always, the negative outcomes that should have been addressed in legislation are now perfectly obvious in hindsight.

Therefore existing Victorian legislation, the lapsed Local Government Bill 2018 and proposed 2019 reforms are not current best practice. The current set of proposals in the [Local Government Reform Paper](#)⁶ are too limited, significant, additional Local Government election reforms are required.

Unreasonably restrictive, council Local Laws related to public engagement and Public Question Time in council meetings were not addressed in Local Government Bill 2018 therefore changes to the relevant legislation are proposed.

3 **Local Government Bill 2018:-**

http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/PubPDocs_Arch.nsf/5da7442d8f61e92bca256de50013d008/ca257cca00177a46ca2582950078a5e6!OpenDocument

4 Victorian Electoral Commission:- <https://www.vec.vic.gov.au/>

5 Australian Electoral Commission:- <https://www.aec.gov.au/>

6 **Local Government Bill Reform Paper:-**

https://www.localgovernment.vic.gov.au/_data/assets/pdf_file/0022/422905/LG-Bill-2019-Consultation-Paper-v.30-.pdf

One Vote But Not One Value

An analysis of Victorian Local Government General Elections shows the 'One Vote, One Value' principle does not apply. Flaws in the [Local Government Act 1989](#)⁷ and [Local Government \(Electoral\) Regulations 2016](#)⁸ have been addressed by other jurisdictions using a relatively simple change commonly referred to as a Robson Rotation.

Analysis of election results from the last three General Elections (2012, 2016 and 2017) is provided. Examination of Donkey Vote bias is performed for:

1. Probability of election of the Candidate at the top of Ballot Papers.
2. Probability of election of Candidates in the 1st Decile and 10th Decile of Ballot Papers.
3. Probability of election of Candidates in the 1st Quartile of Ballot Papers.

All show Donkey Vote bias has been underestimated. Legislation to address the defects in the current Act and Regulations are proposed.

7 **Local Government Act 1989:-**

http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubLawToday.nsf/a12f6f60fbd56800ca256de500201e54/913106300a1e3a73ca2583b00009d6c4!OpenDocument

8 **Local Government (Electoral) Regulations 2016:-**

http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubLawToday.nsf/b12e276826f7c27fca256de50022686b/e192de2910bc7820ca2581840080909f!OpenDocument

Identification Of Donkey Vote Bias By Observed Probability

The 2012, 2016 and 2017 Victorian, Local Government General Elections results are available online via the VEC's [Local Government Election Results Timeline](#)⁹ web page. Analysis has shown the public can not be confident all elections are 'fair' as clearly some candidates have received a significant, unfair advantage delivered by the Donkey Vote bias.

In this analysis Melbourne City Council, plus all By-elections and Countbacks have been excluded. Melbourne City has group tickets, direct election of the Mayor with Deputy Mayor, and other election practices that are not applicable to any other Victorian council. By-elections are typically held in isolation and may not be representative of a General Election for all council positions.

Analysis does not include wards where the number of candidates was less than or equal to the number of vacancies. In those cases the candidates were automatically appointed without the requirement of a poll.

Initially, election results were sorted by the number of candidates standing for election in a ward. Although there are hundreds of election results, for elections with 8 or more candidates there are only a limited number of elections for each **Candidate <number>**.

To overcome the problem of a limited number of elections per **Candidate <number>**, the results are amalgamated into **Candidate <number - number>** ranges (see **Candidate Range** in tables). All ranges include the highest candidate number (**Candidate 41**) to enable an estimation of the donkey vote bias.

If the **Candidate Range** started from the lowest candidate number (**Candidate 2**) then the large number of results for wards with **Candidate <number>** less than or equal to 7 candidates would swamp the less numerous, higher **Candidate <number>** wards. This would mask the impact of the Donkey Vote bias. The **Candidate 2-41** range includes all election results being analysed.

Initially 2 sigma (2σ or 95.5%) was going to be reported as a but that would not have illustrated the true impact of Donkey Votes on elections. Therefore 3 sigma (3σ or 99.7%) has been reported and plotted.

Expected Probability (E_p), **Upper 3 σ** (U 3σ) and **Lower 3 σ** (L 3σ) has been calculated from ward ballots. The **Observed Probability** (p) is calculated from the number of successful elections by the top candidate (Candidate #1) on ballot papers.

Probability of election of a candidate has a lower limit of zero (0.0) which can be seen with the **Lower 3 σ** (L 3σ) calculations and associated plot. Calculations did include all **Candidate <number-41>** ranges but not all have been reported in this submission. Results reported in this submission have been rounded to 3 decimal places and this will cause a insignificant loss of precision for some results

Candidate Range 2-41 to **Candidate Range 19-41** all have 34 or more election results. **Candidate Range 20-41** to **Candidate Range 24-41** has been shaded in the table to show results that indicate a likely trend of continued divergence between the **Expected**

⁹ Local Government Election Results Timeline:- <https://www.vec.vic.gov.au/Results/results-munitimeline.html>

Probability and Observed Probability. Observed Probability over 3 sigma. **Candidate Range 25-41** and above have even lower election counts and have been excluded from the summary table but included on the graph just to illustrate possible trends.

Analysis Of Observed Probability By Ballot Paper Position

This summary table¹⁰ is calculated from the 2012. 2016 plus 2017 Victorian, Local Government General Election results but does not include Melbourne City or any By-elections or Countbacks. Nor does it include wards where the number of candidates was less than or equal to the number of vacancies.

Candidate Range	Election Totals	Lower 3σ	Ep - Expected Probability	Upper 3σ	p - Observed Probability	Ratio of p/Ep
24 - 41	12	0.000	0.201	0.539	0.667	3.317
23 - 41	13	0.000	0.195	0.517	0.615	3.150
22 - 41	17	0.000	0.181	0.455	0.471	2.593
21 - 41	20	0.000	0.183	0.436	0.400	2.188
20 - 41	27	0.000	0.184	0.402	0.407	2.219
19 - 41	34	0.000	0.198	0.398	0.412	2.075
18 - 41	41	0.018	0.200	0.381	0.415	2.076
17 - 41	49	0.051	0.221	0.392	0.367	1.661
16 - 41	55	0.057	0.217	0.378	0.400	1.839
15 - 41	66	0.067	0.214	0.360	0.439	2.057
14 - 41	86	0.099	0.229	0.359	0.442	1.932
13 - 41	100	0.121	0.244	0.366	0.460	1.888
12 - 41	120	0.138	0.250	0.363	0.450	1.798
11 - 41	140	0.153	0.259	0.364	0.436	1.685
10 - 41	167	0.166	0.264	0.361	0.401	1.522
9 - 41	195	0.182	0.272	0.363	0.415	1.525
8 - 41	223	0.195	0.281	0.367	0.417	1.482
7 - 41	247	0.210	0.292	0.375	0.425	1.455
6 - 41	284	0.221	0.299	0.376	0.412	1.379
5 - 41	316	0.232	0.305	0.379	0.411	1.348
4 - 41	354	0.246	0.316	0.385	0.427	1.352
3 - 41	404	0.257	0.323	0.389	0.421	1.304
2 - 41	466	0.284	0.346	0.409	0.423	1.221

For virtually all Victorian Local Government elections (i.e. not just with 19 or more candidates), the Donkey Vote corrupts the principal of 'One Vote, One Value'. When twice as many candidates at the

¹⁰ Calculations for p, Ep, 3σ reported in this summary table and associated graph were performed by Dr. S. Grose, Bachelor of Economics (Hons), Ph.D. (Monash University).

top of the Ballot Paper (Candidate #1) are elected due to a Donkey Vote bias then this is a problem that needs to be addressed within the 2019 reform process.

Given 100 elections for average wards of 19 or more candidates (**Candidate Range 19-41**) it is possible to estimate the number of additional candidates elected from the top of the ballot papers i.e. Candidate #1.

Candidate Range	Expected (100 Elections)	Observed (100 Elections)	Additional Candidates #1
19-41	19.80	41.2	21

For wards with large candidate numbers the impact of the Donkey Vote has been seriously underestimated. As these are no longer 'fair' elections over twice as many candidates at the top of ballot papers (Candidate #1) will be elected. If 21 additional candidates at the top of ballot papers are elected then voters for other candidates can no longer have confidence all votes have the same value.

It is likely the **Candidate Range 19-41** underestimates the actual impact of the donkey vote for the highest candidate ranges e.g. elections with 25 or more candidates. Another impact on elections with a high number of candidates are informal votes. Refer to the **Informal Votes** section for further analysis.

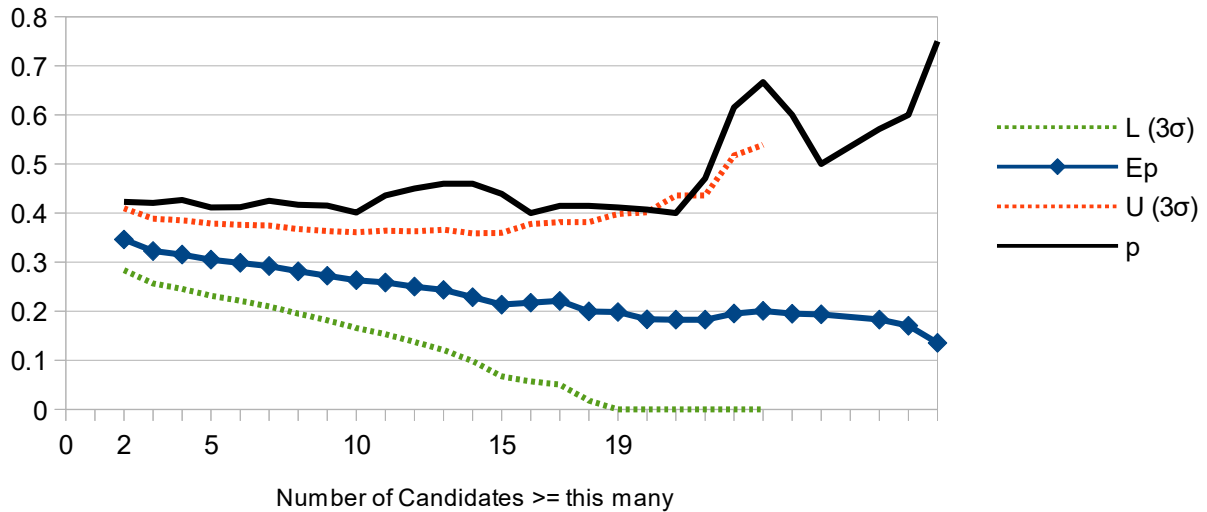
For **Candidate Range 20-41** and higher the accuracy is limited as shown by **Upper 3 sigma** ($U 3\sigma$) rapidly increasing in the Table and Graph. If the **Candidate Range 24-41** could have been used in the previous 100 elections example then the donkey vote impact would be significantly greater i.e. **Expected 20, Observed Statistic 66, Additional Candidates #1 46**. With the addition of the 2020 General Election results it should be possible to have greater confidence in the candidate ranges into the low 20s.

Candidate Range 25-41 to **Candidate Range 30-41** have such low election counts that they were not reported in the summary table and only the **Expected Probability** and **Observed Probability** have been plotted to show a possible trend.

Calculations for p , E_p , 3σ plotted in this graph were performed by Dr. S. Grose, Bachelor of Economics (Hons), Ph.D. (Monash University).

Observed (p) & Expected (E_p) Pr(Candidate #1 wins)

2012, 2016 & 2017 General Elections excluding Melbourne City



Results for elections with the lowest **Candidate <number>** (e.g. 2, 3, 4, ...) show they are much less likely to be impacted by donkey votes. When using the average of all 466 elections the large number of results from wards with a low **Candidate <number>** masks the problem in wards with high candidate numbers. **Upper 3 sigma** ($U\ 3\sigma$) highlights the Donkey Vote bias is significant for virtually all candidate ranges.

Given the large number of small wards (which are less likely to have a donkey vote) included in **Candidate Range 2–41** the masking effect shows how in the past it was possible for the VEC to overlook then dismiss the impact of Donkey Votes bias.

Candidate Range	Expected (100 Elections)	Observed (100 Elections)	Additional Candidates #1
19 – 41	19.8	41.2	21
2 – 41	34.6	42.3	8

An increase of 8 candidates in 100 elections or 8% can be easily lost in the 'noise' and be overlooked.

The Local Government Act currently ensures the Donkey Vote bias has the maximum impact on election results. Donkey Vote bias is relatively simple to address and has been addressed in other jurisdictions. 2019 reforms based on the Local Government Bill 2018 did not address this problem.

Another approach to detecting bias is **Observed Probability** by [Quantiles](#)¹¹. Summary tables and graphs for [Deciles](#)¹² and [Quartiles](#)¹³ are presented. For the case of 40 candidates standing for election in a ward the groups of Candidates are:

- 1st Decile contains Candidates #1 (top of Ballot Paper), #2, #3 and #4.
- 10th Decile contains Candidates #37, #38, #39 and #40 (last on Ballot Paper).
- 1st Quartile contains Candidates #1, #2, #3, #4, #5, #6, #7, #8, #9, and #10.

Without a Donkey Vote Bias the expected probability for each decile would be 0.1, (or represented as 10% of councillors) and for each quartile it would 0.25 (or represented as 25% of councillors).

The same technique of using ranges is used with Deciles but the lower limit has been set at **Candidate Range 10-41**. As other candidates with a lower probability of success are now included with Candidate #1 the **Observed Probability** will be lower but still significant.

11 Definition of Quantiles:- <https://en.wikipedia.org/wiki/Quantile>

12 Definition of Decile:- <https://en.wikipedia.org/wiki/Decile>

13 Definition of Quartiles:- <https://en.wikipedia.org/wiki/Quartile>

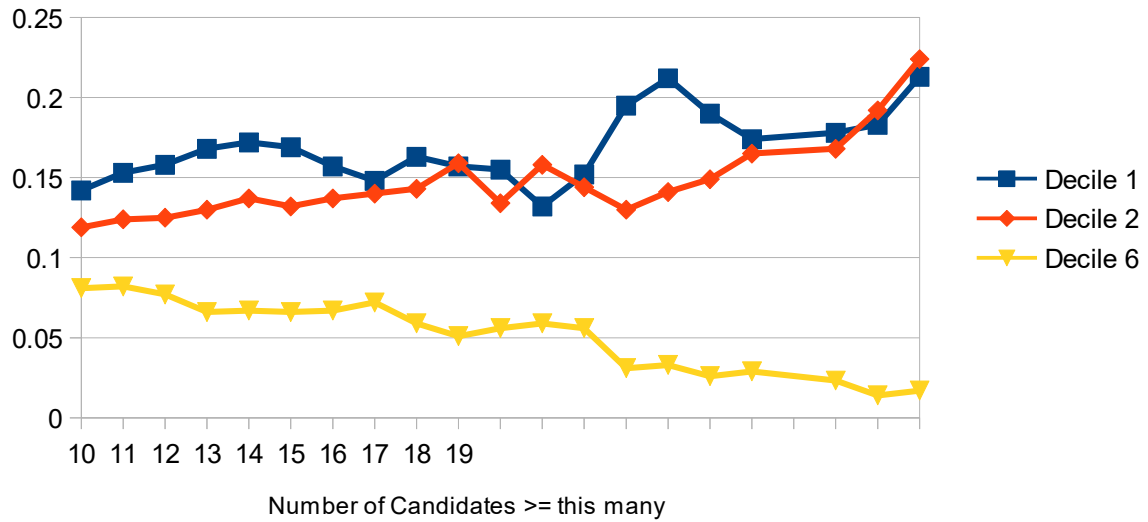
Analysis Of Observed Probability By Deciles

This summary table is calculated from the 2012, 2016 plus 2017 Victorian, Local Government General Election results but does not include Melbourne City or any By-elections or Countbacks. Nor does it include wards where the number of candidates was less than or equal to the number of vacancies.

Candidate Range	Candidate Count	1	2	3	4	5	6	7	8	9	10	Max/Min
10-41	630	0.142	0.119	0.130	0.092	0.089	0.081	0.083	0.090	0.075	0.099	1.89
11-41	552	0.153	0.124	0.127	0.092	0.078	0.082	0.087	0.091	0.066	0.098	2.32
12-41	484	0.158	0.125	0.122	0.088	0.068	0.077	0.094	0.100	0.066	0.101	2.39
13-41	416	0.168	0.130	0.118	0.090	0.068	0.066	0.097	0.089	0.066	0.107	2.55
14-41	355	0.172	0.137	0.124	0.094	0.068	0.067	0.095	0.082	0.063	0.098	2.73
15-41	277	0.169	0.132	0.116	0.083	0.079	0.066	0.106	0.081	0.063	0.106	2.68
16-41	245	0.157	0.137	0.116	0.065	0.090	0.067	0.103	0.084	0.073	0.107	2.15
17-41	227	0.148	0.140	0.118	0.071	0.098	0.072	0.091	0.095	0.067	0.101	2.21
18-41	182	0.163	0.143	0.122	0.067	0.089	0.059	0.097	0.092	0.057	0.110	2.86
19-41	156	0.157	0.159	0.130	0.071	0.089	0.051	0.091	0.105	0.048	0.099	3.27
20-41	122	<i>0.155</i>	<i>0.134</i>	<i>0.133</i>	<i>0.085</i>	<i>0.080</i>	<i>0.056</i>	<i>0.110</i>	<i>0.103</i>	<i>0.049</i>	<i>0.094</i>	3.16
21-41	96	<i>0.132</i>	<i>0.158</i>	<i>0.122</i>	<i>0.073</i>	<i>0.079</i>	<i>0.059</i>	<i>0.126</i>	<i>0.120</i>	<i>0.059</i>	<i>0.071</i>	2.24
22-41	84	<i>0.152</i>	<i>0.144</i>	<i>0.110</i>	<i>0.072</i>	<i>0.074</i>	<i>0.056</i>	<i>0.124</i>	<i>0.117</i>	<i>0.068</i>	<i>0.084</i>	2.24
23-41	72	<i>0.195</i>	<i>0.130</i>	<i>0.082</i>	<i>0.064</i>	<i>0.093</i>	<i>0.031</i>	<i>0.112</i>	<i>0.130</i>	<i>0.089</i>	<i>0.075</i>	2.19
24-41	69	<i>0.212</i>	<i>0.141</i>	<i>0.061</i>	<i>0.041</i>	<i>0.072</i>	<i>0.033</i>	<i>0.121</i>	<i>0.141</i>	<i>0.097</i>	<i>0.081</i>	2.19

The Donkey Vote bias assist candidates in the first three Deciles. While candidates in the lower 7 Deciles are disadvantaged Results above **Candidate Range 19-41** are plotted up to **Candidate Range 30-41** but this is only to indicate possible trends. Results from **Candidate Range 20-41** to **Candidate Range 24-41** are shaded in the table and only provided to indicate possible trends. There are 122 candidates elected in the range of **Candidate Range 20-41** which is a reasonable number but the **Candidate Range 19-41** is selected as the cut-off point as it was previously used in this submission for comparison purposes.

Observed Probability For Deciles



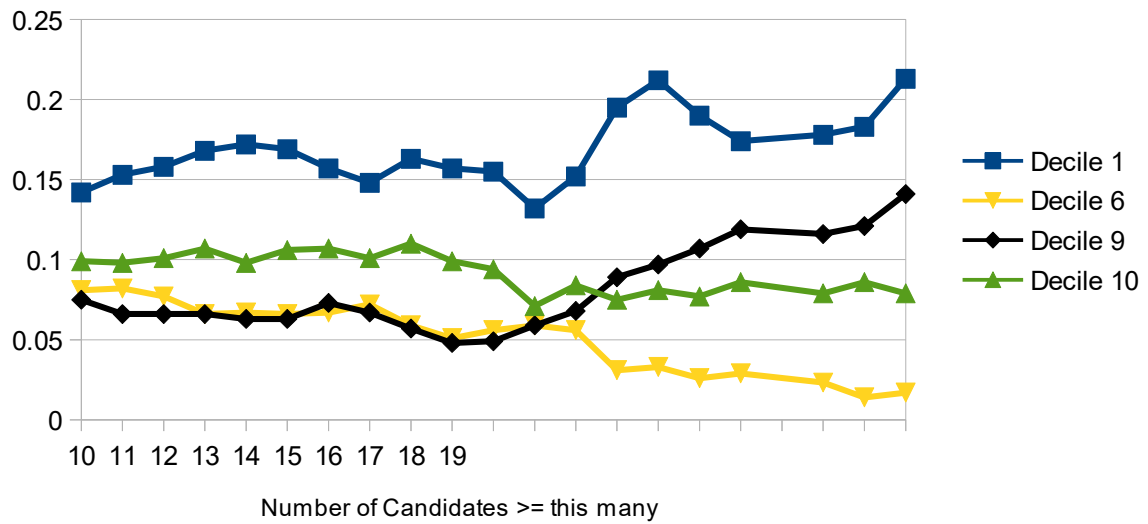
In the graph above there are very obvious trends with Decile 6 and others that confirms a significant Donkey Vote bias. For ranges above **Candidate Range 19-41** the donkey vote bias may significantly increase with candidate numbers. For **Candidate Range 19-41** the decile with the highest (maximum) probability of election is 3.27 times the decile with the lowest (minimum) probability of election.

Based on these results, if there were 63 elections held for these candidate ranges the average election results would be:

Number of Candidates Elected		
Candidate Range	Highest Decile	Lowest Decile
19-41	10	3
10-41	9	5

A Donkey Vote bias is the only explanation available to explain this imbalance between the deciles with the highest and lowest probability of success.

Observed Probability For Deciles



The comparison of Deciles 9 and 10 appears to indicate the effect of a small Reverse Donkey vote as Decile 10 is tracking above Decile 9 from **Candidate Range 10-41** to **Candidate Range 19-41**. For **Character Range 20-41** and above the limited number of elections results is likely to explain the increased probability of Decile 9. The 2020 General Elections should provide additional results for Wards with 20 or more candidates.

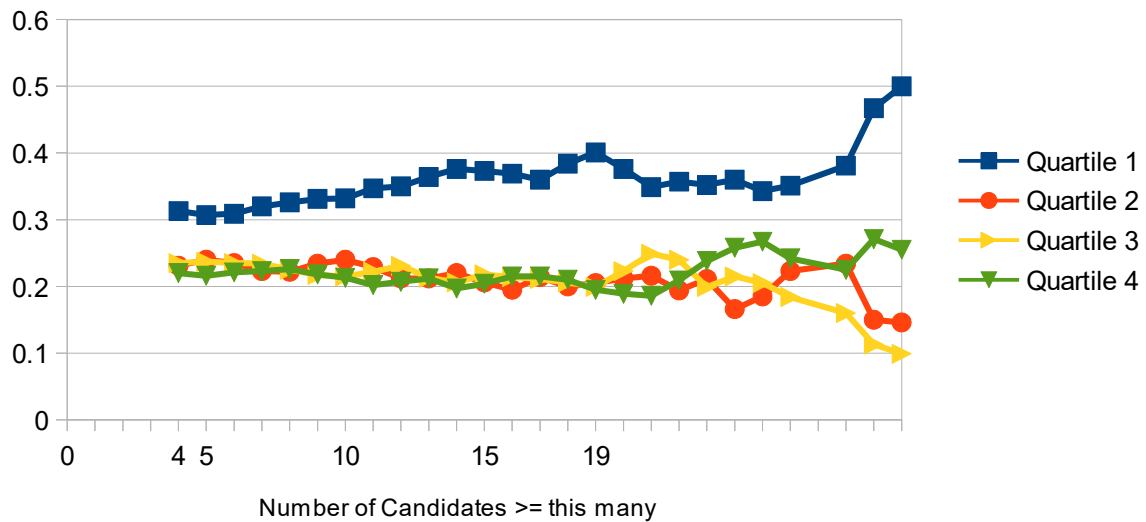
Analysis Of Observed Probability By Quartiles

This summary table is calculated from the 2012, 2016 plus 2017 Victorian, Local Government General Election results but does not include Melbourne City or any By-elections or Countbacks. Nor does it include wards where the number of candidates was less than or equal to the number of vacancies.

Candidate Range	Candidate Count	Quartile 1	Quartile 2	Quartile 3	Quartile 4	Ratio of Max:Min
4-41	1,050	0.313	0.231	0.235	0.220	1.42
5-41	989	0.307	0.240	0.237	0.216	1.42
6-41	931	0.309	0.235	0.235	0.221	1.40
7-41	855	0.320	0.223	0.234	0.223	1.43
8-41	789	0.326	0.222	0.225	0.226	1.47
9-41	712	0.331	0.234	0.217	0.218	1.53
10-41	630	0.332	0.240	0.215	0.213	1.56
11-41	552	0.347	0.229	0.222	0.202	1.72
12-41	484	0.350	0.212	0.231	0.207	1.69
13-41	416	0.364	0.212	0.213	0.212	1.72
14-41	355	0.376	0.220	0.206	0.197	1.91
15-41	277	0.373	0.206	0.218	0.204	1.83
16-41	245	0.369	0.195	0.214	0.222	1.89
17-41	227	0.360	0.214	0.211	0.215	1.71
18-41	182	0.384	0.200	0.206	0.210	1.92
19-41	156	0.401	0.205	0.199	0.195	2.06
20-41	122	<i>0.376</i>	<i>0.212</i>	<i>0.223</i>	<i>0.189</i>	<i>1.99</i>
21-41	96	<i>0.349</i>	<i>0.216</i>	<i>0.249</i>	<i>0.186</i>	<i>1.88</i>
22-41	84	<i>0.357</i>	<i>0.194</i>	<i>0.240</i>	<i>0.209</i>	<i>1.84</i>
23-41	72	<i>0.352</i>	<i>0.211</i>	<i>0.199</i>	<i>0.238</i>	<i>1.77</i>
24-41	69	<i>0.360</i>	<i>0.166</i>	<i>0.215</i>	<i>0.258</i>	<i>2.17</i>

The Donkey Vote bias assist candidates in the first Quartile. While candidates in the lower 3 Quartiles are disadvantaged Results above **Candidate Range 4-41** are plotted up to **Candidate Range 30-41** but above **Candidate Range 19-41** is only plotted to indicate a possible trend. These results are shaded in the table. There are 122 candidates elected in the range of **Candidate Range 20-41** which is a reasonable number but the **Candidate Range 19-41** range (34 elections) is selected as the cut-off point as it was previously used in this submission for comparison purposes.

Observed Probability For Quartiles



In the graph above there are very obvious trends that confirms a significant Donkey Vote bias. For ranges above **Candidate 19-41** the donkey vote bias may significantly increase with candidate numbers. For the **Candidate 19-41** range the quartile with the highest (maximum) probability of election is 2.6 times the quartile with the lowest (minimum) probability of success.

Based on these results, if there were 50 elections held for these candidate ranges the average election results would be:

Number of Candidates Elected		
Candidate Range	Highest Quartile	Lowest Quartile
19-41	20	10
10-41	17	11
4-41	16	11

Donkey Vote bias is the only explanation available for this imbalance between the quartiles with the highest and lowest probability of success.

As a priority the Act and Regulations need to be updated to eliminate the Donkey Vote bias. Other jurisdictions have already eliminated the impact of Donkey Votes bias by updating their legislation with different forms of a Robson Rotation. The current 2019 review must incorporate the appropriate measures into the Victorian Act and Regulations or be counted a failure.

Donkey Votes

What Is A Donkey Vote?

Just about every reference source has a slightly different definition of a Donkey Vote. That has been condensed down into an introductory [Wikipedia](#)¹⁴ article. It provides a simple overview explaining the meaning and impact of a [Donkey Vote](#)¹⁵, and included the following text:

A donkey vote is a ballot cast in an election that uses a preference voting system, where a voter is permitted or required to rank candidates on the ballot paper, and ranks them based on the order they appear on the ballot paper. The voter that votes in this manner is referred to as a donkey voter.

Typically, this involves numbering the candidates in the order they appear on the ballot paper: first preference for the first-listed candidate, second preference for the second-listed candidate, and so on. However, donkey votes can also occur in reverse, such that someone numbers the candidates from the bottom up the ballot paper. In systems where a voter is required to place a number against each candidate for the vote to be valid, the voter may give the first preference to the candidate they prefer, then run all the other numbers donkey fashion.

The Wikipedia article included a comment on the Australian House of Representatives and stated:

The donkey vote has been estimated at between 1 and 2% of the vote, which could be critical in a marginal seat.

The Wikipedia article does not discuss the impact of Donkey Votes on Victorian, Local Government elections.

14 Wikipedia:- https://en.wikipedia.org/wiki/Main_Page

15 **Donkey Vote** article, Wikipedia June 2019:- https://en.wikipedia.org/wiki/Donkey_vote

There have been a number of scholarly articles attempting to estimate the impact of a donkey vote in Australia elections, including:

Estimate	Election	Author	Title	Source
2% to 4%	Representatives	Mackerras	The Donkey Vote for the House of Representatives	APSA Monograph N°. 6 (1963), Department of Government, University of Sydney
1% to 2% and 3%	Senate and Representatives	Mackerras	The “Donkey Vote”	The Australian Quarterly, Vol. 40, No. 4 (Dec., 1968), pp. 89-92
~0.65%	Representatives	Peetz	Donkeys, deserters, and targets: causes of swing in electorates in the 1987 federal election	The Australian Quarterly, Vol. 61, No. 4 (Summer, 1989), pp. 468-480
1.3%	Representatives	Kelly, McAllister	Ballot Paper Cues and the Vote in Australia and Britain: Alphabetic Voting, Sex and Title	Public Opinion Quarterly, 48 Summer (1984), pp. 452-466
1%	Representatives	King, Leigh	Are Ballet Order Effects Heterogeneous?	Social Science Quarterly, Volume 90, Issue 1 (2009), pp.71-87
0.34% to 7.53%	Senate Representatives	Smith, Kildea, Gauja, Keenan	The Challenge of Informed Voting in the 21 st Century	Electoral Regulation Research Network Research Report, April 2015

Various dictionaries can include similar definitions for a Donkey Vote while the [Australian Electoral Commission \(AEC\), Glossary](#)¹⁶ definition is a very concise:

Donkey Vote

A ballot paper marked 1, 2, 3, 4 straight down (or up) a ballot paper.

This is not the only form of a Donkey Vote and using this definition underestimates the impact on Victorian, Local Government elections. State and Commonwealth elections are dominated by political parties with group voting, How-To-Vote cards, above the line voting available for Senate elections where there are a large number of candidates, etc.

Except for How-To-Vote cards in some very limited elections (e.g. Attendance Elections) the Victorian, Local Government elections under the current legislation does not have any mechanisms to reduce or eliminate Donkey Votes bias. As detailed below in the **Suppression of Candidate Information** section the current legislation can increase the impact of a Donkey Vote bias.

¹⁶ Australian Electoral Commission, **Glossary**:- <http://www.aec.gov.au/footer/Glossary.htm#d>

8 Types of Donkey Vote

Shown are examples of eight different types of Donkey Vote. In the examples of Partial Donkey Votes the first two preferences (1 & 2) are cast with apparent care then the balance are cast in a Donkey Vote sequence. Circular Donkey Votes are a special case of the Partial Circular Donkey Votes where only the first preference appears to have been cast with apparent care.

Position	Linear	Reverse Linear	Circular	Reverse Circular	Partial Linear	Partial Reverse Linear	Partial Circular	Partial Reverse Circular
#1	1	10	4	8	3	10	10	3
#2	2	9	5	7	2	2	2	2
#3	3	8	9	6	4	9	3	10
#4	4	7	6	5	5	8	4	9
#5	5	6	7	4	6	7	5	8
#6	6	5	8	3	7	6	6	7
#7	7	4	9	2	8	5	7	6
#8	8	3	1	1	1	1	1	1
#9	9	2	2	10	9	4	8	5
#10	10	1	3	9	10	3	9	4

Victorian Electoral Commission Definition

In relation to the Donkey Vote the VEC included in the **2010 Victorian State Parliament Election Report**, [Section 11 Statistical Overview Of The Election](#)¹⁷, Page 73, **Donkey Votes** entry:

A donkey vote is a vote cast by a voter who numbers the squares down the ballot paper, without caring about the nature of the candidates on offer. Candidates are pleased if they get the top spot on the ballot paper when the draw for position takes place, because they will have the advantage of the donkey vote. The size of the donkey vote has been a matter for discussion.

The VEC counted the donkey votes as part of its survey of ballot papers. To measure real donkey votes, it is necessary to distinguish them from votes following party advice and from votes that were logically in this order given the nature of the candidates. ...

Figure 64: Proportion of donkey votes minus proportion attributable to random variation on Page 73 demonstrated how minuscule impact of the Donkey Vote had on the election. In Figure 64, the proportion attributable to random variation has been subtracted. ...

In the Districts surveyed, the median donkey vote was 1% of the total formal vote. The donkey vote varied widely, from 0.07% in Rodney to 2.59% in Shepparton.

Given the advantage conferred by the Donkey Vote it is not surprising that the VEC states "Candidates are pleased if they get the top spot on the ballot paper". Candidates benefiting from an advantage are the ones least likely to be unhappy. This analysis is related to the State Election and not directly applicable to Local Government elections.

The VEC stated:

The size of the donkey vote has been a matter for discussion.

And this submission is an extension of that discussion. Extracts from this submission have been forwarded to the VEC for their consideration. This should enable the VEC to provide their position on Donkey Vote bias to the review. Unfortunately, with only a rudimentary knowledge of statistics this submission does not provide the analysis or detail the techniques used by Dr. S. Grose Bachelor of Economics (Hons), Ph.D. (Monash University). Therefore the VEC

The sequence reported by the VEC for their analysis is limited to numbers straight down the ballot paper. Unfortunately the side effect is the VEC has unnecessarily restricted its analysis by excluding most forms of a Donkey Vote.

The current ballot paper design favours the first listed candidate. At first the Reverse Donkey Vote appears to have little impact. Refer to the 9th and 10th Decile comparison in the **Analysis Of Observed Probability By Deciles** section. Another form of Donkey Vote is where a voter thoughtfully votes for a limited number of candidates scattered across the Ballot Paper and then completes their ballot following a linear Donkey Vote pattern either from the top or around the ballot paper in a circular fashion.

Post election analysis of Australian elections by electoral commissions typically report a very low Donkey Vote that is dismissed as not significant. Previous VEC analysis appears to overlook the impact of all Donkey Vote variants and the biased probability of election of some candidates i.e. Candidate #1, or the 1st and 2nd Deciles. To enable independent analysis one solution is to release

¹⁷ **2010 Victorian State Parliament Election Report, Section 11 - Statistical Overview Of The Election** entry:-
<https://www.vec.vic.gov.au/files/ER-2010-Section11.pdf>

via Victoria's open data platform the VEC datasets for local government elections after the expiry of all the council terms of office. [About DataVic](#)¹⁸ web page states:

DataVic – Victoria's open data platform.

DataVic is the place to discover and access Victorian Government open data.

DataVic is owned by the State Government of Victoria, and is administered by the Victorian Department of Premier and Cabinet.

The DataVic Access Policy was endorsed by the Victorian Government in August 2012 for implementation throughout the Victorian public service.

Through this policy, Victorian government datasets will be:

- *available to the public*
- *easy to find*
- *easy to use*

Early release of the data may influence the prevalence of recounts required to fill vacant positions therefore only delayed release is recommended.

In the 2016 and 2017 Local Government, General Elections that are analysed here the major political parties (Liberal and Labor) did not endorse candidates. The Greens Victoria did endorse a very limited number of candidates therefore party politics was not a significant factor influencing results. The more politicised Melbourne City election results are excluded.

The [Local Government Electoral Review Discussion Paper](#)¹⁹, dated September 2013, released for the **Petro Georgiou AO** Local Government review states in 2012 there were 8 attendance elections for 79 councils from which one (Melbourne City) election has not been used in this analysis.

How-To-Vote information was not distributed by the VEC for postal elections therefore no need to distinguish real Donkey Votes from votes following party advice, etc. The remaining, small number (single digits at each General Election) of attendance elections have not been excluded as party politics is currently irrelevant for Victorian, Local Government elections. If there had been a significant number of attendance elections then it would be interesting to compare the **Observed Probability** between Attendance and Postal Elections. Even with the addition of 2020 election results the total number of Attendance Election results available for analysis would still be very limited.

If party politics and endorsed candidates become significant factors in Local Government elections then the Donkey Vote analysis would require access to the VEC datasets. In addition, the How-To-Vote information would be required before analysis could be attempted. The **Local Government Electoral Review Discussion Paper** dated September 2013, **Candidate Information** chapter, **Current Arrangements** section stated 506 How-To-Vote cards were registered for 271 candidates. The Star Community Newspaper - Dandenong, [Preference Shock For Greater Dandenong Councillor](#)²⁰ article dated 12/10/2012, stated:

Councillors Kelly and Herring have kept their preferences open, registering five versions of their how-to-vote cards.

18 **About DataVic** web page:- <https://data.vic.gov.au/about-datavic>

19 **Local Government Review Discussion Paper**, dated September 2013:-
https://www.localgovernment.vic.gov.au/_data/assets/pdf_file/0024/48156/Electoral-Review-Part-1_2-Oct-15.pdf

20 Star Community Newspapers - Dandenong, **Preference Shock For Greater Dandenong Councillor** article:-
<https://dandenong.starcommunity.com.au/uncategorized/2012-10-12/preference-shock-for-greater-dandenong-councillor/>

Unfortunately there can be unused, alternative How-To-Vote cards registered or a candidate could use multiple How-To-Vote cards, etc. Therefore a simple inspection of the registered How-To-Vote card records can not determine what has been distributed. Calculation of **Observed Probability** would still be valid but **Expected Probability** and **3 sigma** would become a more challenging problem as How-To-Vote cards are likely to contain partial Donkey Vote sequences.

Without access to all ballot papers or datasets an examination of the results of a single ward election in isolation can not identify the size or impact of a Donkey Vote. It may be the first candidate on the ballot paper was just more popular and did not rely on a donkey. Given the 20 to 40 candidates for some wards there is the situation in local government elections where a Donkey Vote is a significant issue to be addressed by changes in the legislation.

The Tasmanian Electoral Commission (TEC) investigated Donkey Votes cast in two Tasmanian local government elections. The results were published in the [Robson Rotation Discussion Paper](#)²¹, dated April 2008 and included:

Local government elections

Ballot papers from the 2002 Latrobe and Meander Valley Council elections were examined.

The survey of all formal ballot papers found:

- *1.4% of the ballot papers were full linear votes.*
- *0.4% of the ballot papers were full linear votes going in the reverse direction (bottom to top).*
- *2.4% of the ballot papers were full circular votes.*
- *27.5% of the ballot papers showed only the minimum five preferences and 66.4% of ballot papers showed a preference for all 14 candidates. Only 6.1% voted for an in between number of candidates.*
- *27.9% of the ballot papers contained partial linear voting. That is, voters casting their first few preferences with apparent care, and then filling in the remaining boxes in a straight sequence up or down the ballot paper.*

In summary linear voting at local government elections did not appear to be a large problem.

There are major problems applying these results or assuming the conclusion applies to Victorian Local Government elections.

1. The Tasmanian elections only had 14 candidates while Victorian elections have had up to 43 candidates. Analysis has shown the increased number of candidates in some Victorian elections is likely to increase the size and impact of a Donkey Vote.
2. Insufficient information is available to determine any impact of the partial linear Donkey Vote for such a limited number of elections.

The 2016 Victorian local government elections included wards with a much larger field of candidates that could be influenced by a Donkey Vote. The impact of the very high percentage of partial linear voting (27.9%) identified in the Tasmanian council elections is not identified by the VEC in any election reports.

The Tasmanian Electoral Commission report indicated 27.9% of their local government ballot papers contained partial linear voting. That is, voters casting their first few preferences with apparent care, and then filling in the remaining boxes in a straight sequence up or down the ballot paper.

21 Tasmanian Electoral Commission, **Robson Rotation Discussion Paper**:-
https://tec.tas.gov.au/Info/Robson_Rotation_Paper.pdf

Due to the election or elimination of Candidate #1 on a ballot paper the partial linear donkey vote may result in a candidate placed lower on the ballot paper being elected. Refer to the **Analysis Of Observed Probability By Decile** and **Analysis Of Observed Probability By Quartile** sections.

The following table illustrates preference flows to a candidate that is not Candidate #1. This is not attempting to show all possible combinations, just a subset to show the imbalance in distributed preferences can favour the candidate higher up the ballot paper. Two candidates (#3 and #6) are vying for one councillor position when partial linear donkey votes are distributed. In this example every voter has cast their first 2 votes with care for different candidate pairs then performed a partial linear Donkey Vote for the balance. For each voter their second preference is two candidates numbers above (circular) their first preference candidate number. Shading in the table is used to highlight each preference distribution.

Ballot Position	Voter 1 Votes 3	Voter 2 Preferences 3	Voter 3 Prefers 3	Voter 4 Votes 6	Voter 5 Prefers 6	Voter 6 Prefers 6	Voter 7 Prefers 3	Voter 8 Prefers 3	Voter 9 Prefers 3	Voter 10 Preference 3
#1	2	10	9	8	7	6	5	4	1	3
#2	3	2	10	9	8	7	6	5	4	1
#3	1	3	2	10	9	8	7	6	5	4
#4	4	1	3	2	10	9	8	7	6	5
#5	5	4	1	3	2	10	9	8	7	6
#6	6	5	4	1	3	2	10	9	8	7
#7	7	6	5	4	1	3	2	10	9	8
#8	8	7	6	5	4	1	3	2	10	9
#9	9	8	7	6	5	4	1	3	2	10
#10	10	9	8	7	6	5	4	1	3	2

Both candidates (#3 and #6) receive 1 primary vote (Voter #1 for Candidate #3, with Voter 4 for Candidate #6). On distribution of preferences Candidate #3 receives 6 distributed votes while Candidate #6 only receives 3 distributed votes. As demonstrated, in an actual election a Donkey Vote can bias the election of more than Candidate #1 to unfairly elect a candidate.

Robson Rotation - Tasmania

The 2019 reform of the Act and consequently Regulations should address the issue of Donkey Vote bias in a similar fashion to this Tasmania legislation. To randomise the candidate names on ballot papers the Tasmania legislation provides batches of ballot paper using predetermined layouts for 2 to 30, or more candidates. Due to the order the Acts and Regulations were passed in Tasmania the layout of ballot papers is split into two number ranges:

- 2 to 12
- 13 or more.

An obvious solution is to use the Tasmanian [Local Government \(General\) Regulations 2015](#)²² and [Electoral Regulations 2015](#)²³ legislation as the basis for reforming the Victorian legislation.

Tasmanian, Local Government (General) Regulations 2015

Version current from 14 November 2018

Schedule 1 – Order Of Names on Batch of Ballot Papers

1. Interpretation

In this Schedule –

batch means a group of ballot papers on which the names of candidates appear in the same order;

column, in relation to a ballot paper, means the single vertical column in which the names of candidates are to appear on the ballot paper;

favoured position means a favoured position within the meaning of *Schedule 3* to the [Electoral Act 2004](#)²⁴ ;

matrix column means a vertical column in a matrix;

matrix row means a horizontal row in a matrix.

2. Batch of ballot papers

- (1) The number of ballot papers in each batch, as far as is practicable, is to be the same.
- (2) The number of batches is to be equal to the number of candidates.

3. Favoured position

- (1) In relation to each candidate, there is to be printed, in respect of each favoured position, a batch of ballot papers on which the name of that candidate appears in that favoured position.
- (2) If there are 6 or more candidates, the name of a candidate is not to appear immediately above the name of a particular candidate on more than one batch of ballot papers, if the names of both candidates would be in favoured positions.

4. Matrices

- (1) There is to be a matrix corresponding to the number of candidates.

22 Tasmanian Government [Local Government \(General\) Regulations 2015](#):-
<https://www.legislation.tas.gov.au/view/html/inforce/current/sr-2015-037>

23 Tasmanian Government, [Electoral Regulations 2015](#):-
<https://www.legislation.tas.gov.au/view/html/inforce/current/sr-2015-002>

24 Tasmanian Government [Electoral Act 2004](#):- <https://www.legislation.tas.gov.au/view/html/inforce/current/act-2004-051>

- (2) *The purpose of each matrix is to determine the order of names on each batch of ballot papers.*
- (3) *The number of matrix columns and matrix rows are to be the same as the corresponding number of candidates.*
- (4) *Each matrix is to comprise letters, each of which represents the name of a particular candidate.*
- (5) *The names of the candidates, in the order in which they are drawn in accordance with **regulation 20**, are to be represented by the letters A, B, C and so on in alphabetical order.*
- (6) *The order in which the names of candidates are to be printed on the batches of ballot papers is to be in accordance with the particular matrix for that number of candidates.*

5. Matrix column

- (1) *The first matrix column is to be in alphabetical order starting with A.*
- (2) *The names on the first batch of ballot papers are to be printed in the order represented by the first matrix column.*
- (3) *The names on the second batch of ballot papers are to be printed in the order represented by the second matrix column, and so on.*

6. Matrices for 12 or fewer candidates

If the number of candidates is 12 or less, the matrices are to be as set out in Schedule 2 to the [Electoral Regulations 2015](#)²⁵.

7. Matrices for more than 12 candidates

- (1) *If the number of candidates is more than 12 but less than 31, the Electoral Commissioner is to prepare matrices as follows:*
 - (a) *the first matrix row is to contain a sequence of letters as set out in subclause (2) ;*
 - (b) *the second matrix row is to contain the same sequence of letters commencing with the letter B, continuing to the end of the sequence and then continuing from the start of the sequence to the letter immediately before B;*
 - (c) *the third matrix row is to contain the same sequence of letters commencing with the letter C, continuing to the end of the sequence and then continuing from the start of the sequence to the letter immediately before C;*
 - (d) *the subsequent matrix rows are to contain a sequence of letters following the patterns specified in paragraphs (b) and (c).*
- (2) *The sequence of letters in the first matrix row is as follows:*
 - (a) *if there are 13 candidates, A B K C G F D L J I E M H;*
 - (b) *if there are 14 candidates, A B L C G F D M J K E I H N;*
 - (c) *if there are 15 candidates, A B M C G F D N L H E K J O I;*
 - (d) *if there are 16 candidates, A B N C G F D O L J E M H P K I;*
 - (e) *if there are 17 candidates, A B O C G F D P M J E K H Q I N L;*
 - (f) *if there are 18 candidates, A B P C I H D Q G L E N M R J K O F;*
 - (g) *if there are 19 candidates, A B Q C I H D R G P E N M S J K O F L;*
 - (h) *if there are 20 candidates, A B R C O G D S N Q E J M T L I K F H P;*
 - (i) *if there are 21 candidates, A B S C O G D T N R E L M U H J I F P Q K;*
 - (j) *if there are 22 candidates,*

²⁵ Tasmanian Government, **Electoral Regulations 2015**:-
<https://www.legislation.tas.gov.au/view/html/inforce/current/sr-2015-002>

A B T C O G D U N S E P L V H J I F Q R K M;

(k) if there are 23 candidates,

A B U C O G D V N T E L I W H J Q F R S K P M;

(l) if there are 24 candidates,

A B V C O G D W N U E J I X H M K F S T R L Q P;

(m) if there are 25 candidates,

A B W C O G D X N V E J I Y H M K F T U S L Q R P;

(n) if there are 26 candidates,

A B X C O G D Y N W E J I Z H M K F U V T L P Q S R;

(o) if there are 27 candidates,

A B Y C O G D Z N X E J I AA H M L F V W U P Q T K R S;

(p) if there are 28 candidates,

A B Z C O G D AA P Y E J I AB H U L F W X V S N R K Q M T;

(q) if there are 29 candidates,

A B AA C O G D AB P Z E J I AC H R L F X Y W Q N S K T M U V;

(r) if there are 30 candidates,

A B AB C O G D AC P AA E J I AD H Q L F Y Z X R N V K W M T S U.

(3) If the number of candidates is 31 or more, the Electoral Commissioner is to prepare matrices taking into account the provisions of these regulations.

8. Collation of ballot papers

- (1) Ballot papers are to be collated so that a ballot paper from batch 1 is followed by a ballot paper from batch 2, then a ballot paper from batch 3 and so on up to a ballot paper from the last batch, to be followed by a ballot paper from batch 1, batch 2 and so on until the collation is complete.
- (2) Ballot papers are to be inserted into envelopes in the order as collated for sending or delivering or providing in person to an elector under section 284 or 286 of the Act.

Tasmanian, Electoral Regulations 2015

Version current from 16 February 2015

Schedule 2 - Printing Order

1. When there are 2 names in the column -

2nd batch

B

A

2. When there are 3 names in the column -

2nd batch 3rd batch

B

C

C

A

A

B

3. When there are 4 names in the column -

2nd batch 3rd batch 4th batch

D	B	C
C	A	D
A	D	B
B	C	A

4. When there are 5 names in the column -

2nd batch 3rd batch 4th batch 5th batch

C	E	D	D
A	C	E	B
E	D	B	A
B	A	C	E
D	B	A	C

5. When there are 6 names in the column -

2nd batch 3rd batch 4th batch 5th batch 6th batch

B	E	D	F	C
E	D	F	C	A
A	B	E	D	F
F	C	A	B	E
D	F	C	A	B
C	A	B	E	D

6. When there are 7 names in the column -

2nd batch 3rd batch 4th batch 5th batch 6th batch 7th batch

B	F	E	G	C	D
F	E	G	C	D	A
D	A	B	F	E	G
A	B	F	E	G	C
G	C	D	A	B	F
E	G	C	D	A	B
C	D	A	B	F	E

7. When there are 8 names in the column -

2nd batch 3rd batch 4th batch 5th batch 6th batch 7th batch 8th batch

B	G	D	H	C	E	F
G	D	H	C	E	F	A
A	B	E	F	H	D	G
E	F	G	B	A	C	H
F	A	B	D	G	H	C
H	C	A	G	D	B	E
D	H	C	E	F	A	B
C	E	F	A	B	G	D

8. When there are 9 names in the column -

2nd batch 3rd batch 4th batch 5th batch 6th batch 7th batch 8th batch 9th batch

B	H	G	I	C	D	E	F
H	G	I	C	D	E	F	A
D	E	F	A	B	H	G	I
E	F	A	B	H	G	I	C
F	A	B	H	G	I	C	D
A	B	H	G	I	C	D	E
I	C	D	E	F	A	B	H
G	I	C	D	E	F	A	B
C	D	E	F	A	B	H	G

9. When there are 10 names in the column -

2 nd batch	3 rd batch	4 th batch	5 th batch	6 th batch	7 th batch	8 th batch	9 th batch	10 th batch
B	H	C	E	I	G	F	D	J
H	C	E	I	G	F	D	J	A
E	I	G	F	D	J	A	B	H
J	A	F	B	C	E	I	G	I
I	G	A	D	J	H	B	H	C
D	J	B	A	H	C	E	I	G
F	D	J	H	B	A	C	E	F
C	E	I	G	F	D	J	A	B
G	F	D	J	A	B	H	C	E
A	B	H	C	E	I	G	F	D

10. When there are 11 names in the column -

2 nd batch	3 rd batch	4 th batch	5 th batch	6 th batch	7 th batch	8 th batch	9 th batch	10 th batch	11 th batch
B	I	C	D	J	G	F	E	K	H
I	C	D	J	G	F	E	K	H	A
D	J	G	F	E	K	H	A	B	I
J	B	K	C	A	H	I	F	E	G
A	G	F	H	K	I	C	B	D	J
K	H	A	E	B	C	G	D	J	K
F	E	H	A	I	B	D	J	I	C
E	K	I	B	D	J	A	C	G	F
C	D	J	G	F	E	K	H	A	B
G	F	E	K	H	A	B	I	C	D
H	A	B	I	C	D	J	G	F	E

11. When there are 12 names in the column -

2 nd batch	3 rd batch	4 th batch	5 th batch	6 th batch	7 th batch	8 th batch	9 th batch	10 th batch	11 th batch	12 th batch
B	J	C	E	K	G	H	D	L	F	I
J	C	E	K	G	H	D	L	F	I	A
E	K	G	H	D	L	F	I	A	B	J
A	B	H	F	L	J	I	G	E	K	C
D	F	I	A	C	K	J	H	B	L	G
H	A	B	D	I	E	C	J	C	G	K
I	D	L	J	A	F	B	E	K	J	H
K	L	J	I	B	A	G	C	D	E	F
L	G	F	C	E	B	K	A	H	D	L
C	E	K	G	H	D	L	F	I	A	B
G	H	D	L	F	I	A	B	J	C	E
F	I	A	B	J	C	E	K	G	H	D

The Tasmanian batch sequences are fixed for each number of candidates in an election. This process would be a trivial extension to the VEC computer software used by Returning Officers to populate ballot papers with the names of candidates. Given the higher number of candidates in Victorian, Local Government elections and to future proof the system any software could be written for up to 100 candidates. Given there has only been one Victorian election with 43 candidates it is highly unlikely during the life of any 2019 legislation that there would be more than 50 or 60 candidates. Although a local government election with 100 candidates is not likely to ever be held it would be a trivial extension to software designed for 40, 50 or 60 candidates.

Documenting construction of every possible batch configuration from 2 to 100 candidates in a Schedule to the legislation may not be required. It would be simpler for the legislation to require the VEC to generate the appropriate matrices in a similar format to the Tasmanian legislation:

(3) If the number of candidates is 31 or more, the Electoral Commissioner is to prepare matrices taking into account the provisions of these regulations.

Robson Rotation - ACT

Five candidates are elected from every Australian Capital Territory electorate and their Ballot Papers are limited to 5 names in a column. Therefore the [Electoral Act 1992](#)²⁶ provides a table of Ballot Paper layouts incorporating that limitation.

Australian Capital Territory, Electoral Act 1992

Republication No. 57

Effective Date 23 October 2018

Division 9 - Arrangement for Elections

Division 9.2 - Ballot Papers

116 Printing Of Ballot Papers

(2) A ballot paper must not contain more than 5 candidate's names in a column.

Schedule 2 Ballot papers—printing of names and collation

In this schedule:

column, in relation to a ballot paper, means a column of candidates' names printed on the ballot paper in accordance with section 116.

- (1) The ballot papers for an election shall be printed so that, for each column-*
 - (a) separate batches are printed equal in number to the number of names in the column; and*
 - (b) in the first batch, the names in the column are printed in an order determined by the commissioner by lot; and*
 - (c) in each batch after the first, the names in the column are printed in the order specified in the table at the end of this schedule; and*
 - (d) so far as practicable, the number of ballot papers in each batch for the column is equal to the number of ballot papers in each other batch for the column.*
- (2) In the table at the end of this schedule—*
 - (a) the number '1' appearing in a column shall be taken to represent the name determined in accordance with clause 1 (b) to be in the first position in the corresponding column on the ballot paper; and*
 - (b) the number '2' appearing in a column shall be taken to represent the name determined in accordance with clause 1 (b) to be in the second position in the corresponding column on the ballot paper;*

and so on.

The commissioner shall ensure that ballot papers distributed to a polling place for the purposes of an election are so collated that the ballot paper immediately following another ballot paper in the issue is in a form different from that of the other ballot paper.

²⁶ Australian Capital Territory, [Electoral Act 1992](https://www.legislation.act.gov.au/View/a/1992-71/current/PDF/1992-71.PDF):- <https://www.legislation.act.gov.au/View/a/1992-71/current/PDF/1992-71.PDF>

The OIC of a polling place shall ensure, so far as practicable, that the form of a ballot paper issued by an officer to a person claiming to vote at that place is different from that of the previous ballot paper so issued by the officer.

TABLE

For 5-member electorates

1st Batch	2nd Batch	3rd Batch	4th Batch	5th Batch	6th Batch	7th Batch	8th Batch	9th Batch	10th Batch	11th Batch	12th Batch
1	1	1	1	1	1	1	1	1	1	1	1
2	2	2	3	3	3	4	4	4	5	5	5
3	4	5	2	5	4	5	2	3	4	3	2
4	5	3	5	4	2	2	3	5	3	2	4
5	3	4	4	2	5	3	5	2	2	4	3

13th Batch	14th Batch	15th Batch	16th Batch	17th Batch	18th Batch	19th Batch	20th Batch	21st Batch	22nd Batch	23rd Batch	24th Batch
2	2	2	2	2	2	2	2	2	2	2	2
3	3	3	4	4	4	5	5	5	1	1	1
4	5	1	3	1	5	1	3	4	5	4	3
5	1	4	1	5	3	3	4	1	4	3	5
1	4	5	5	3	1	4	1	3	3	5	4

25th Batch	26th Batch	27th Batch	28th Batch	29th Batch	30th Batch	31st Batch	32nd Batch	33rd Batch	34th Batch	35th Batch	36th Batch
3	3	3	3	3	3	3	3	3	3	3	3
4	4	4	5	5	5	1	1	1	2	2	2
5	1	2	4	2	1	2	4	5	1	5	4
1	2	5	2	1	4	4	5	2	5	4	1
2	5	1	1	4	2	5	2	4	4	1	5

37th Batch	38th Batch	39th Batch	40th Batch	41st Batch	42nd Batch	43rd Batch	44th Batch	45th Batch	46th Batch	47th Batch	48th Batch
4	4	4	4	4	4	4	4	4	4	4	4
5	5	5	1	1	1	2	2	2	3	3	3
1	2	3	5	3	2	3	5	1	2	1	5
2	3	1	3	2	5	5	1	3	1	5	2
3	1	2	2	5	3	1	3	5	5	2	1

<i>49th Batch</i>	<i>50th Batch</i>	<i>51st Batch</i>	<i>52nd Batch</i>	<i>53rd Batch</i>	<i>54th Batch</i>	<i>55th Batch</i>	<i>56th Batch</i>	<i>57th Batch</i>	<i>58th Batch</i>	<i>59th Batch</i>	<i>60th Batch</i>
5	5	5	5	5	5	5	5	5	5	5	5
1	1	1	2	2	2	3	3	3	4	4	4
2	3	4	1	4	3	4	1	2	3	2	1
3	4	2	4	3	1	1	2	4	2	1	3
4	2	3	3	1	4	2	4	1	1	3	2

The ACT and Tasmania legislation provides two very different implementations of a Robson Rotation to reduce or eliminate the impact of a Donkey Vote bias.

In the Victorian context the ACT implementation is too constrained as the ACT rotation is limited to individual columns and that does not appear to overcome a Donkey Vote bias to the 'top' of the paper.

The Tasmanian legislation is a better fit to Victorian election practices. It also has the advantage of two different procedures for implementing Robson Rotations i.e. **Electoral Regulations 2015** and **Local Government (General) Regulations 2015**. There is a significant difference in the complexity of these pieces of legislation and Victoria could draft a different implementation of a Robson Rotation.

Computer Software Implementation

Relevant matrices could be generated in computer code and published on the VEC website in a similar format to the [software component that generates the random order](#)²⁷ for the [Computerised Random Ballot Draw](#)²⁸:

```
using System;
using System.Collections.Generic;

namespace Vec.Apps.Nominations
{
    public static class BallotDrawHelper
    {
        private static readonly Random random = new Random();
        private static readonly object syncLock = new object();

        public static int[] GenerateRandomPositions(int count)
        {
            if (count <= 0)
                throw new ArgumentOutOfRangeException("count");

            lock (syncLock)
            {
                var positions = new List<int>(count);

                for (int i = 0; i < count; i++)
                {
                    int next;
                    do
                    {
                        next = random.Next(1, count + 1);
                    } while (positions.Contains(next));

                    positions.Add(next);
                }
                return positions.ToArray();
            }
        }
    }
}
```

The VEC provides this code fragment in the C# language but does not provide any comments to document operation. For example the un-commented use of:

```
private static readonly Random random = new Random();
```

Some 'private', 'static', 'readonly', 'Random', 'random', 'new Random' conveys nothing useful without some detailed knowledge of C#. This code should have included sufficient explanatory text so that people with some programming knowledge (i.e. zero C# knowledge) would feel confident this code fragment performs as advertised. As this trivial example illustrates, to most people the reason for a single Random instance and reuse in C# can not be learnt from the VEC code extract.

27 VEC, **Software Component That Generates The Random Order**:-

<https://www.vec.vic.gov.au/files/EMS/BallotDrawHelper.txt>

28 VEC, **Computerised Random Ballot Draw**:-

<https://www.vec.vic.gov.au/Elections/ElectionManagementSystems.html>

How-To-Vote information is not currently distributed in the postal election packs. For all practical purposes candidates are not permitted to reference every other candidate. Therefore How-To-Vote cards are not currently an issue for postal elections. In future, if How-To-Vote information from each candidate was required then:

- Each candidate would have to electronically enter their How-To-Vote information using the VEC's web portal for candidates.
- How-To-Vote information could then be printed corresponding to the batch layout of the ballot paper provided to an elector.

How-To-Vote cards can be distributed in attendance elections but with this system it would be impossible to know which candidate order would appear on the ballot paper given to any voter. This is expanded on in the Suppression **of Candidate Information** section.

The sample Robson Rotation legislation below is just one of many possible solutions.

1. Recommendations

- 1.1 Prior to the drafting of Local Government Bill 2019 the Victorian Electoral Commission (VEC) to re-analyse all 2008, 2012, 2016 and 2017 Local Government General Election datasets to determine the impact of all donkey vote variants and **Observed Probability**.
- 1.2 Prior to the drafting of Local Government Bill 2019 the VEC to report findings of **Observed Probability** with recommendations.
- 1.3 VEC to release all Local Government General Election datasets via the DataVic open data platform.
- 1.4 Release of an election dataset should only occur after the expiry of each the council's term of office.
- 1.5 Eliminate Donkey Vote bias by implementing a Robson Rotation of candidate names on Ballot-Papers based on the following modifications to the Local Government (Electoral) Regulations 2016 legislation. The sample legislation provides Ballot-Paper layouts for 2 to 10 Candidates and could be easily modified for:
 - (a) up to 12 Candidates by including the last two layouts from the Tasmanian Government, [Electoral Regulations 2015](#)²⁹, or
 - (b) 13 to 30 Candidates with legislation based on the Tasmanian Government, [Local Government \(General\) Regulations 2015](#)³⁰, or
 - (c) A simpler alternative for a significant range expansion is for the VEC to generate a Robson Rotation suitable for Local Government elections.

Victorian, Local Government (Electoral) Regulations 2019

21a Ballot-Paper Batches

Ballot-paper batches are to be in accordance with Schedule 2.

Schedule 2 — Order of names on Batches of Ballot Papers

1. Definitions

- (1) In this Schedule –
 - batch** means a group of ballot papers on which the names of candidates appear in the same order;
 - column**, in relation to a ballot paper, means a vertical column in which the names of candidates are to appear on the ballot paper;
 - favoured position**, in relation to a column of a ballot paper, means (reading from the top of the column) –
 - (a) if the names of 2 candidates are to appear in the column – the first position in the column; and
 - (b) if the names of 3 candidates are to appear in the column – the first and third positions in the column; and
 - (c) if the names of 4 candidates are to appear in the column – the first and fourth positions in the column; and
 - (d) if the names of 5 candidates are to appear in the column –

29 Tasmanian Government, [Electoral Regulations 2015](https://www.legislation.tas.gov.au/view/html/inforce/current/sr-2015-002):-
<https://www.legislation.tas.gov.au/view/html/inforce/current/sr-2015-002>

30 Tasmanian Government [Local Government \(General\) Regulations 2015](https://www.legislation.tas.gov.au/view/html/inforce/current/sr-2015-037):-
<https://www.legislation.tas.gov.au/view/html/inforce/current/sr-2015-037>

- the first, third and fifth positions in the column; and
- (e) if the names of 6 candidates are to appear in the column – the first, second, fifth and sixth positions in the column; and
- (f) if the names of 7 candidates are to appear in the column – the first, second, sixth and seventh positions in the column; and
- (g) if the names of 8 candidates are to appear in the column – the first, second, seventh and eighth positions in the column; and
- (h) if the names of 9 candidates are to appear in the column – the first, second, eighth and ninth positions in the column; and
- (i) if the names of 10 or more candidates are to appear in the column – the first, second, third and last 3 positions in the column.

2. Printing and collation of batches of ballot papers

- (1) Ballot papers are to be printed in batches with the ballot papers within each batch having the same order of candidate names.
- (2) There are to be two sets of batches.
- (3) The first set of batches is to be printed in accordance with the provisions of clauses 4, 5 and 6.
- (4) The second set of batches is to be printed so that –
 - (a) there is a batch corresponding to each batch in the first set of batches; and
 - (b) the corresponding batch in the second set of batches has the name of the same candidate in the first position, but the order of the names below that first name is reversed; and

For example, if the order of names on a batch in the first set of batches is ABCDE, the order of names on the corresponding batch in the second set of batches is AEDCB.
 - (c) the number of ballot papers in each batch in the second set of batches is, as far as practicable, to be equal to the number of ballot papers in each batch in the first set of batches.
- (5) All ballot papers are to be collated in accordance with clause 6 and issued in accordance with clause 7.

3. Ballot papers to be printed in equal batches

In relation to each candidate whose name is required to be included in the column–

- (a) there is to be printed, in respect of each of the favoured positions for that column, a batch of ballot papers on which the name of that candidate appears in such a favoured position; and
- (b) the number of ballot papers in each batch on which the name of that candidate appears in that column in a particular favoured position is, as far as is practicable, to be equal to the number of ballot papers in each of the other batches of ballot papers on which the name of every other candidate whose name is to be included in that column appears in that favoured position.
- (c) If there are 6 or more candidates, the name of a candidate is not to appear immediately above the name of a particular candidate on more than one batch of ballot papers, if the names of both candidates would be in favoured positions.

4. Order of names of candidates on first batch

For the printing of the first batch of ballot papers, the names of the candidates in the column or, as the case may be, in the columns are to be listed in the order

- (a) determined by a computerised, single random draw using a system that has been independently certified determining that the draw is completely random and secure from external influence, or,
- (b) a manual draw in a manner determined by the Victorian Electoral Commission.

5. Order for subsequent batches

- (1) The names of the candidates, in the order in which they are drawn are to be represented by the series of letters A, B, C, ... Y, Z, AA, AB and so on in alphabetical order.
- (2) If the field of candidates has to be divided into multiple columns on the ballot-paper then in different batches a candidates should at a minimum appear once in all columns
- (3) Every candidate has an equal chance of being placed in any column.
- (4) Subject to the provisions of this Schedule, the printing order for the second and subsequent batches is to be -
 - (a) for ballot-papers with 2 to 10 candidates as shown in Schedule 3,
 - (b) for ballot-papers with 11 or more candidates
 - (i) the computerised system in 4(a) will produce ballot-papers batches in the form of Schedule 3, or
 - (ii) the Victorian Electoral Commission will publish the ballot-paper matrices for 2 to 60 candidates to be produced by 5(b)(i) for use with 4(b) manual draws, or as required.

6. Collation of ballot papers

Before ballot papers for an election in respect of an electoral division are distributed to returning officers, the Commissioner is to, as far as is practicable, ensure that each issue of ballot papers is collated in such a way that the ballot paper immediately following another ballot paper in the issue is in a form different from that of the other ballot paper.

7. Issuing of ballot papers

When issuing ballot papers, an election official is to, as far as is practicable, issue an elector with a ballot paper in a different form from the previous ballot paper he or she issued.

Schedule 3 - Ballot-Paper Sequences for 2 to 10 Candidates

1. When there are 2 names in the column -

1st batch 2nd batch

A	B
B	A

2. When there are 3 names in the column -

1st batch 2nd batch 3rd batch

A	B	C
B	C	A
C	A	B

3. When there are 4 names in the column -

1st batch 2nd batch 3rd batch 4th batch

A	D	B	C
B	C	A	D
C	A	D	B
D	B	C	A

4. When there are 5 names in the column -

1st batch 2nd batch 3rd batch 4th batch 5th batch

A	C	E	D	D
B	A	C	E	B
C	E	D	B	A
D	B	A	C	E
E	D	B	A	C

5. When there are 6 names in the column -

1st batch 2nd batch 3rd batch 4th batch 5th batch 6th batch

A	B	E	D	F	C
B	E	D	F	C	A
C	A	B	E	D	F
D	F	C	A	B	E
E	D	F	C	A	B
F	C	A	B	E	D

6. When there are 7 names in the column -

1st batch 2nd batch 3rd batch 4th batch 5th batch 6th batch 7th batch

A	B	F	E	G	C	D
B	F	E	G	C	D	A
C	D	A	B	F	E	G
D	A	B	F	E	G	C
E	G	C	D	A	B	F
F	E	G	C	D	A	B
G	C	D	A	B	F	E

7. When there are 8 names in the column -

1 st batch	2 nd batch	3 rd batch	4 th batch	5 th batch	6 th batch	7 th batch	8 th batch
A	B	G	D	H	C	E	F
B	G	D	H	C	E	F	A
C	A	B	E	F	H	D	G
D	E	F	G	B	A	C	H
E	F	A	B	D	G	H	C
F	H	C	A	G	D	B	E
G	D	H	C	E	F	A	B
H	C	E	F	A	B	G	D

8. When there are 9 names in the column -

1 st batch	2 nd batch	3 rd batch	4 th batch	5 th batch	6 th batch	7 th batch	8 th batch	9 th batch
A	B	H	G	I	C	D	E	F
B	H	G	I	C	D	E	F	A
C	D	E	F	A	B	H	G	I
D	E	F	A	B	H	G	I	C
E	F	A	B	H	G	I	C	D
F	A	B	H	G	I	C	D	E
G	I	C	D	E	F	A	B	H
H	G	I	C	D	E	F	A	B
I	C	D	E	F	A	B	H	G

9. When there are 10 names in the column -

1 st batch	2 nd batch	3 rd batch	4 th batch	5 th batch	6 th batch	7 th batch	8 th batch	9 th batch	10 th batch
A	B	H	C	E	I	G	F	D	J
B	H	C	E	I	G	F	D	J	A
C	E	I	G	F	D	J	A	B	H
D	J	A	F	B	C	E	I	G	I
E	I	G	A	D	J	H	B	H	C
F	D	J	B	A	H	C	E	I	G
G	F	D	J	H	B	A	C	E	F
H	C	E	I	G	F	D	J	A	B
I	G	F	D	J	A	B	H	C	E
J	A	B	H	C	E	I	G	F	D

Attendance And Postal Elections

The type of Local Government election is not standardised in Victoria with a small minority of councils choosing an Attendance Election format. It is appropriate to compare Attendance and Postal Elections to determine what is the most appropriate format for the electors as opposed to the preference of councillors.

In the various Local Government reviews held in Victoria the Local Government related bodies such as Shires, Councils and Commissions are engaged throughout the process and extensively consulted. Individuals with a keen interest in this sector such as former candidates plus current and former councillors provide their own input to reviews but there is little engagement with the wider community. Some wider community statistics like Satisfaction Survey results are available but that does not provide any guidance on which type of election is preferred by electors.

Polling Method And Voter Formality

The [Local Government Electoral Review, Stage 1 Report](#)³¹, dated January 2014, **Polling Method, Issues, Polling Method And Voter Formality**, Page 92, stated:

*Attendance voting consistently delivers lower formality rates. In 2008, the informal voting rate for attendance general elections was 9.9 per cent, compared to 3.8 per cent for postal general elections (2.64 per cent at the Melbourne City Council postal election). In 2012, the informal voting rate for attendance general elections was 10.1 per cent, compared to 4.7 per cent for postal general elections (2.16 per cent at the Melbourne City Council postal election)*³².

Polling Method	Informal Voting Rate (%)	
	2008	2012
Attendance	9.9	10.1
Postal	3.8	4.7
Differential	6.1	5.4

Table 8: Informal voting rate (per cent) for attendance and postal voting in 2008 and 2012 (Source: VEC)

A summary of informal voting statistics for 2000 to 2012 is available on the VEC [Informal Voting Statistics](#)³³ web page. More detailed data is available from the VEC in the associated [Excel spreadsheet](#)³⁴. For the 2016/17 General Elections the informal voting statistics for all councils plus By-election results are available from the VEC [Local Council Election Results](#)³⁵ web page. All these statistics consistently demonstrate that electors are penalised by the use of Attendance Elections.

Forcing people to attend a polling station penalises electors by making it harder for them to complete valid ballot papers. Complexity of the Ballot Paper is exactly the same for postal elections with a similar number of candidates. Therefore the issue is unrelated to the complexity of the ballot paper.

Postal elections allow voters to complete their ballot-papers at home in a more relaxed atmosphere. Given the extended voting period for a postal election, the completion of a ballot-paper is basically without a time constraint. With the ballot-paper in front of them, voters have an opportunity to perform some basic research on candidates e.g. social media, newspapers and other media web sites, etc.

Attendance elections severely limit the time a voter has access to a ballot-paper therefore there is minimal time for a voter to perform any research on candidates or to consider their options.

31 Local Government Electoral Review, **Stage 1 Report**:-
https://www.localgovernment.vic.gov.au/_data/assets/pdf_file/0020/48161/Stage-1-report-Local-Government-Electoral-Review.pdf

32 VEC, 2013, Report on Conduct of the 2012 Local Government Elections, Melbourne, p. 39:-
<https://www.vec.vic.gov.au/files/LG-2012-Election-Report.pdf>

33 VEC, Informal Voting Statistics:- <https://www.vec.vic.gov.au/Results/results-munistats-informal.html>

34 VEC, Informal Voting Statistics, **Excel spreadsheet**:- <https://www.vec.vic.gov.au/files/lginformality.xls>

35 VEC, Local Council Election Results:- <https://www.vec.vic.gov.au/Results/results-council.html>

The environment, time pressures, etc., cannot be addressed by changes to the physical environment of the polling station. The appropriate way to address the higher informal voting rate is to remove the option of attendance elections from the Act.

The Local Government Bill 2018 provided a mechanism for the Minister to override a councils choice of election format. But any choice the minister makes will be taken as party political interference in the Local Government election process. Removing the Attendance Election option at this point is a permanent solution that simplifies the Legislation. The councils impacted by this proposal will be in a position to put their own points of view but this does not give a voice to the impacted electors. A Citizens Jury could review the reforms proposed in a Local Government Bill 2019 and its associated Regulations. The Citizen Jury could be asked if the format of all elections should be restricted to postal votes.

Initially the suggested legislation changes here was going to remove all Attendance Elections related sections. As a consequence of their direct linkage to Attendance Elections there would be the total removal of How-To-Vote plus Voting Centre clauses. There has to be a mechanism for an elector to hand delivery the return of their postal vote instead of using an Australia Post service. This required clauses to regulate control of a box to hold returns which then necessitates a location to have a box. End result here is a partial removal of Voting Centres but retention of early voting centres. If this control issue can be addressed more simply then all Voting Centre related clauses could be deleted.

Polling Method And Participation

The Local Government Electoral Review, Stage 1 Report 2014, Polling Method, Issues, Polling Method And Participation, Page 88, stated:

Since 2000, postal elections for Victorian councils have consistently produced higher participation rates than attendance elections. For local government elections conducted by the VEC between 2000 and 2005, the average participation rate difference was 8.84 per cent³⁶³⁷

For the general elections in 2008 and 2012, which were conducted solely by the VEC for all councils that had elections, the difference was 6.41 per cent and 8.91 per cent respectively.³⁸

The difference in participation rates for general elections since 2000 is shown in Table 4.

Year(s)	Polling method with a higher participation rate	Difference in participation rates (%)
2000	<i>Postal</i>	<i>8.84</i>
2008	<i>Postal</i>	<i>6.41</i>
2012	<i>Postal</i>	<i>8.91</i>

Table 4: Difference in participation rates (per cent) for local government postal and attendance general elections conducted by the VEC

(Source: VEC website <https://www.vec.vic.gov.au/Results/results-munistats-participation.html>)

The difference in participation between attendance and postal elections appears to be largely accounted for by lower participation at attendance elections by voters on the CEO's list and by voters aged 70 years and over, as Tables 5 and 6 illustrate. Voting is not compulsory for either of these groups.

For the 2016/17 General Elections the participation rate statistics for all councils plus By-election results are available from the VEC [Local Council Election Results](https://www.vec.vic.gov.au/Results/results-council.html)³⁹ web page.

By requiring electors to attend a polling station it penalises electors by making it harder for them to complete valid ballot papers. In comparison to postal elections the period available to cast a valid vote is very constrained and electors are more likely to forget or miss the polling day. Electors who live outside of a council ward are less likely to attend, have fewer prompts from friends and neighbours to attend. When compared to postal elections the issue is unrelated to complexity of the ballot paper, etc. The difficulty attending a polling station, time pressures, etc., cannot be addressed by changes to the physical environment of the polling station. The appropriate way to address the lower participation rate is to remove the option of attendance elections.

36 VEC, Voter Participation Rates Statistics:- <https://www.vec.vic.gov.au/Results/results-munistats-participation.html>

37 VEC, Voter Participation Rates Detailed Statistics, Excel spreadsheet- <https://www.vec.vic.gov.au/files/lgparticipation.xls>

38 VEC, Voter Participation Rates Statistics:- <https://www.vec.vic.gov.au/Results/results-munistats-participation.html>

39 VEC, Local Council Election Results:- <https://www.vec.vic.gov.au/Results/results-council.html>

Polling Method And Cost

The Local Government Electoral Review, Stage 1 Report 2014, Polling Method, Issues, Polling Method And Cost, Page 92, stated:

The VEC reports that “Postal voting... is somewhat cheaper (approximately 25–30 per cent average) than attendance elections”⁴⁰. This was borne out by a comparison of the cost of the 2012 elections, based on de-identified data provided by the VEC. As shown in Table 9 below, the cost of postal voting elections was 70 per cent of the cost of attendance elections in 2012: \$6.52 per vote cast for postal elections, compared with \$9.29 per vote cast for attendance voting.

<i>Polling Method</i>	<i>Average contested election voters (number)</i>	<i>Average turnout (number)</i>	<i>Average turnout (%)</i>	<i>Total average cost (excluding GST)</i>	<i>Average cost per vote</i>
<i>Attendance</i>	87,792	55,795	63.6	\$518,080	\$9.29
<i>Postal⁴¹</i>	47,022	34,104	72.5	\$222,247	\$6.52

Table 9: Cost per vote for attendance and postal council elections in 2012 (Source: VEC)

Compared to postal elections, the attendance elections are significantly more expensive and that is a cost born by rate payers through their council rates, fees, etc. With rate capping and other constraints on Local Government spending the additional costs of holding an attendance election is wasted money that would be better spent on delivering service.

Given all the drawbacks it appears attendance elections are not chosen for the benefit of the electors. Attendance elections are more expensive. have higher informal votes and lower participation rates. They fail to deliver 'One Vote One Value' when compared to other Victorians living in postal election councils.

Given the higher cost, lower participation rates, higher informal vote and small number of attendance elections, it is now appropriate to align all elections to the Postal Election format. There are no good reasons to hold attendance elections. This 2019 legislation review is attempting to provide greater consistency of representative structures while maintaining inconsistent election processes. The elimination of the small number of attendance elections would simplify the Act and ensure no matter where a resident was located or relocated their local government elections would be consistent.

Given the current legislation restricts How-To-Vote cards to Attendance Elections this change may permit the removal of any associated clauses in the legislation with the removal of Attendance Elections. How-To-Vote cards will be revisited in the **Suppression of Candidate Information** section.

40 VEC, **Security of Postal Voting**, p. 2, viewed 20 November 2013:-
<https://www.vec.vic.gov.au/files/PPPPostalVotingSecurity.pdf>

41 The average turnout includes results of all postal elections, except the Melbourne City Council leadership team and Geelong mayor, and the costs include the costs of all postal elections, including Melbourne City Council (councillors and leadership team) and Geelong City Council (councillors and mayor). The analysis of the data also found that postal election participation rates were similar for municipalities with similar electorate sizes

2. Recommendations

- 2.1 All Local Government elections to be held by postal vote.
- 2.2 Convene a citizen jury
 - (a) To review the Local Government Bill 2019
 - (b) Should the Attendance Election option be deleted?
 - (c) Should the How-To-Vote option be included?
- 2.3 Delete the Attendance Election option and the How-To-Vote card based on the following modifications to the Local Government Bill 2018 and Local Government (Electoral) Regulations.

Victorian, Local Government Bill 2019

3 Definitions

~~how-to-vote card means any card, handbill, pamphlet or notice~~

- ~~(a) which is or includes a representation or partial representation or purported representation or purported partial representation of a ballot paper for use in an election; or~~
- ~~(b) which lists the names of any or all of the candidates for an election with a number indicating an order of voting preference against the names of any or all of those candidates;~~

~~voting centre means a place appointed by the election manager for voting at an election as~~

- ~~(a) an early voting centre; or~~
- ~~(b) a mobile voting centre; or~~
- ~~(c) an election day voting centre;~~

291 Voting system

- ~~(1) The voting system to be used for general elections and by-elections is to be **postal voting**, determined by the Minister in accordance with this section.~~
- ~~(2) Before making a determination under this section, the Minister must consider advice obtained by the Minister from the VEC.~~
- ~~(3) The Minister must determine the voting system to be used for the first general elections to be held after the commencement of section 286 at least 12 months before the date of those general elections.~~
- ~~(4) The Minister must publish a notice of the determination under subsection (3) in the Government Gazette.~~
- ~~(5) The Minister may determine to change the voting system to be used for general elections at least 12 months before the date of the general elections to which the determination will apply.~~
- ~~(6) The Minister must publish a notice of the determination under subsection (5) in the Government Gazette.~~

- ~~(7) A general election must be held using the voting system that applies under the most recent determination made under subsection (3) or (5).~~
- ~~(8) A by-election must be held using the voting system that was used for the preceding general election.~~
- ~~(9) In this section, voting system means—~~
- ~~(a) postal voting; or~~
 - ~~(b) attendance voting; or~~
 - ~~(c) any other form of voting determined by the Minister.~~

296 Infringement offence

- (4) In addition to the details required under section 13 of the Infringements Act 2006, the following details of the election to which the alleged infringement relates must be included in an infringement notice served under subsection (2)—
- (a) the name of the Council;
 - (b) if applicable, the name of the ward;
 - ~~(c) if the election was conducted using attendance voting, the date of the election;~~
 - ~~(d) if the election was conducted by postal voting, the date that voting closed.~~

321 Power to request handing over of how-to-vote cards

- (1) The person in charge of a voting centre or a person authorised by the person in charge to act on that person's behalf under this section may request a person reasonably suspected by the person in charge of contravening section 320—
- (a) to produce for inspection any how-to-vote cards in the person's possession; and
 - (b) to hand over all how-to-vote cards. ~~other than registered how-to-vote cards.~~

324 Offences at voting centre

- ~~(2) The person in charge of a voting centre may cause any area in the vicinity of the premises used as a voting centre to be delineated by notices, signs or other means, and that area is to be treated as the voting centre for the purposes of subsection (1).~~

330 Interference with political liberty

- ~~(5) A person must not during the hours of voting within 400 metres of the entrance of, or within the building used as, a voting centre—~~
- ~~(a) make any public demonstration having any reference to the election; or~~
 - ~~(b) use any loud speaker or amplifier or any other apparatus or device for broadcasting or disseminating any matter intended or likely to affect the result of the election.~~

~~Penalty: 1 penalty unit.~~

- ~~(6) Subsections (1) and (5) does not apply to any official statement or announcement made or exhibited under the authority of this Act.~~

331 Powers of election manager or election official

- ~~(1) Any election manager or election official has the power and authority—~~
- ~~(a) to maintain order and keep the peace at any venue used for an election; and~~
 - ~~(b) to cause to be removed any person who—~~
 - ~~(i) obstructs the approaches to a voting centre; or~~
 - ~~(ii) wilfully or unnecessarily obstructs or delays the proceedings at a voting centre; or~~
 - ~~(iii) behaves in a disorderly manner; or~~
 - ~~(iv) remains in a voting centre for a longer time than is reasonably necessary for the purpose of voting; or~~
 - ~~(v) causes a disturbance at any election.~~

354 Regulations relating to electoral matters

~~Without limiting the generality of section 353, the regulations may prescribe any matter relating to or in respect of the following—~~

- ~~(g) the approval and registration of how-to-vote cards at attendance elections;~~
- ~~(k) the conduct of attendance elections, including early voting at voting centres and mobile voting centres;~~

Victorian, Local Government (Electoral) Regulations

5 Definitions

(1) In these Regulations—

~~**attendance election** means an election conducted in accordance with Part 5;~~

~~**candidate information** means a candidate statement and a candidate indication of preferences lodged in accordance with regulation 38;~~

~~**declaration ballot-box** means a box provided at a voting centre in accordance with regulation 64 for the receipt of pre-poll postal votes and declaration votes;~~

~~**declaration vote** means a vote cast in accordance with regulation 77;~~

~~**indication of preferences** means a document containing an indication of a candidate's preferred order of voting;~~

~~**pre-poll postal vote** means a postal vote cast by a voter in an attendance election in accordance with Division 2 of Part 5;~~

23 Disadvantaged voters signing declarations

- (1) If a disadvantaged voter is requested or required to sign a declaration in accordance with Part ~~5-01-6~~, the declaration may be signed by a person authorised by the disadvantaged voter to sign in the place of the disadvantaged voter.
- (2) A person signing a declaration under Part ~~5-01-6~~ for a disadvantaged voter must clearly write the person's name and the words "authorised signatory" beneath the person's signature.

Suppression Of Candidate Information

If there are a large number of candidates (e.g. 20, 30 or more) then voters are unlikely to have knowledge of all candidates in such a large field. One advantage the average voter does have is their knowledge of incumbents (to the incumbent's advantage) but the [Local Government Act 1989](#)⁴² and [Local Government \(Electoral\) Regulations 2016](#)⁴³ unnecessarily restricts the information that can be distributed by the VEC to the Candidate Statement and Questionnaire.

Victorian, Local Government Act 1989

Authorised Version No. 151

Part 3 – Elections

Division 7 – Conduct Of Elections And Polls Of Voters

41A Elections or Poll By Postal Voting

(2) If the Council makes such a decision, the returning officer must—

(b) send or deliver to each voter on the voters' roll who is entitled to vote at the election or poll—

(vi) any document prescribed for the purposes of this paragraph;

(vii) any other material that the returning officer thinks is appropriate

Victorian, Local Government (Electoral) Regulations 2016

Authorised Version No. 003

Part 4 – Candidates

Division 2 – How-To-Vote Cards

27 Application of Division

This Division applies to attendance elections.

42 **Local Government Act 1989:-**

[http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/LTObject_Store/ltobjst10.nsf/DDE300B846EED9C7CA257616000A3571/47BF7C3826A93157CA2583B40080AAA6/\\$FILE/89-11aa151_authorized.pdf](http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/LTObject_Store/ltobjst10.nsf/DDE300B846EED9C7CA257616000A3571/47BF7C3826A93157CA2583B40080AAA6/$FILE/89-11aa151_authorized.pdf)

43 **Local Government (Electoral) Regulations 2016:-**

[http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/LTObject_Store/ltobjst10.nsf/DDE300B846EED9C7CA257616000A3571/1DA347DAE212A26ACA2583610010D47E/\\$FILE/16-91sra003_authorized.pdf](http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/LTObject_Store/ltobjst10.nsf/DDE300B846EED9C7CA257616000A3571/1DA347DAE212A26ACA2583610010D47E/$FILE/16-91sra003_authorized.pdf)

Division 3 - Candidate Statements

34 Candidate Statements A Prescribed Document

For the purposes of section 41A(2)(b)(vi) of the Act, a candidate statement is a prescribed document.

36 Form Of A Candidate Statements

- (1) Subject to subregulation (2), a candidate statement must include—*
 - (a) a written statement of no more than 200 words; and*
- (2) A candidate statement must not include either of the following—*
 - (a) a reference to another candidate standing for an election in the municipal district without the written consent of that other candidate;*
 - (b) unless subregulation (3) applies, a claim of endorsement or support from a party, an organisation or a person.*

Part 6 - Voting In Postal Elections

Division 2 - Issue Of Postal Ballot Materials

84 Issue Of Postal Ballot Envelopes

- (4) In addition to the electoral materials specified in section 41A(2) of the Act, the returning officer must ensure that each postal ballot envelope contains—*
 - (b) the candidate information for the ward or municipal district in which the voter is entitled to vote; and*

Currently a Candidate in a Postal Election can not register a How-To-Vote card (Section 27) as they are only validated for attendance elections. While Section 36 severely limits references to other candidates. For all practical purposes Returning Officers can not include How-To-Vote cards or a representation of a How-To-Vote card in a Candidate Statement in the ballot package sent to voters. Candidates are not able to simply reference another candidates position or past performance on council decisions, etc.

Candidates are not permitted to reference the record of other candidates by name unless they have been granted permission. Therefore positions candidates have taken on contentious local issues are censored due to a lack of permission. With the censoring of Candidate Statements the result can be as trite as the candidate is this amazingly wonderful person who may be married with children, etc. Any policy information may be in the form of trivial, statements designed not to offend anybody. With limited real knowledge about some candidates the voter has no choice but to make some form of Donkey Vote. End result of candidate information suppression is an increase in the size of a Donkey Vote.

Web sites do not have an artificial 200 word limit therefore a Candidate should be permitted to submit to the VEC a reasonable amount of text in addition to the Candidate Statement. The current Candidate Statement limit is retained for the printed documentation and it is used as the introductory link to the longer, more detailed, online only statement.

The current restriction on referencing other Candidates should be relaxed. Direct quotes or extracts from Council agendas, minutes of meetings, published reports, any associated recordings of Council meetings, etc., should be acceptable.

Typically candidates will know or get to know a number of other candidates through their shared interests in their council, local events, groups, meetings, attending the VEC candidate meetings, etc. How-To-Vote information provided voters with their preferred candidates views through their preference choices for compatible and incompatible candidates.

A voter was once able to use this additional information from multiple candidates to construct their own preference list. This source of information has always been available for Attendance Elections but removed from postal voters. A voter without this information is more likely to cast a form of donkey vote after they have made a careful choice for some candidates. Through ignorance of Candidate positions they can preference Candidates in an order they would never have considered with full knowledge of Candidates. Given limited information voters are more likely to give higher weight to names that have some local recognition. That is a further advantage for incumbents when a voter is preferencing out of ignorance. A suitable response is the re-introduction of How-To-Vote information.

With the recommendation for a Robson Rotation plus Postal Elections combination the re-introduction of How-To-Vote information is constrained. Therefore only one list can be accepted as the print order varies with each batch of ballot-papers.

The previous recommendation for the removal of Attendance Elections triggered the removal of all How-To-Vote clauses, This recommendation introduces How-To-Vote information for Postal Elections.

3. Recommendations

- 3.1 Permit Candidates to register How-To-Vote information that the VEC will distribute to all electors.
- 3.2 A Candidate is restricted to one How-To-Vote list i.e. alternate lists are not supported.
- 3.3 When registering as a Candidate a 10,000 word position statement can be submitted to the VEC for publication on the VEC web site with the 200 word Candidate Statement and Questionnaire. A position statement can not be submitted after the close of registration.
- 3.4 In Candidate sourced text a Candidates is able to reference any other Candidate by name in direct relation to information published by a Council e.g. Agenda, Minutes, etc. Only direct quotes or extracts with their Council source document's URL are permitted. It is only permitted to use Council registered domain names and only official publications e.g. comments sections or unedited replies are not permitted unless they are posted by a Councillor, or Council Officer acting within their delegation.
- 3.5 Personal insults or attacks on character, nicknames, etc to be rejected by the VEC. All Candidate supplied text is subject to an appeal process.
- 3.6 All Candidates are able to receive a copy of the original and any updated version of a referencing Candidate's statements.
- 3.7 A Candidate is able to correct any typographical errors created by the deletion of text by the VEC.
- 3.8 A Candidate would not be permitted to add new material (e.g. related to another candidate) when correcting a Candidate Statement that the VEC has been required to modify.
- 3.9 If a 200 word Candidate Statement is not supplied the VEC has the option of using an edited extract of the Candidate Questionnaire in place of the Candidate Statement.

Informal Votes

The [2016 Local Government Elections Report](#)⁴⁴, **Appendix 12: Informal Vote Analysis** provides the following information:

'Numbers – other' is the largest category – both overall and in five of the seven elections analysed. It is significant that the more candidates there were for an election, the higher the proportion of this type of informal votes. This pattern applied regardless of the nature of the local council or the type of election. In Wyndham City Council, Harrison Ward (41 candidates) and in Moyne (17 candidates), some 56% of informal votes fell into the 'Numbers – other' category. These votes appeared overwhelmingly to be cast by voters who had made an effort to vote correctly, but made a numbering error while doing so.

'Numbers – insufficient' was another category that tended to rise with the number of candidates, from 0 in Wangaratta's Warby Ward (four candidates) to 19.3% in Wyndham's Harrison Ward. Many of these voters completed about half the boxes on the ballot paper but then appeared to give up. Others completed as many boxes as the number of councillors to be elected. For example, in the four-councillor Harrison Ward, there were many 1-4 votes.

[Optional Preferential Voting](#)⁴⁵ (OPV) or Semi-Optional Preferential Voting (SOPV) would reduce numbering errors and lower the number of wasted votes that are rejected after an elector has indicated their preferred candidate(s).

At a minimum Optional Preferential voting only requires the numeral '1' to be clearly marked on a ballot paper for the vote to be valid. With Semi-Optional Preferential voting a minimum number of valid preferences have to be marked on the ballot paper.

The NSW [Local Government Act 1993](#)⁴⁶ and [Local Government \(General\) Regulations 2005](#)⁴⁷ implements Optional Preferential Voting for the election of councillors. Reference is:

NSW, Local Government Act 1993

Chapter 10 How Are People Elected To Civic Office?

Part 3 What Is The System Of Election?

284 Voting System For Election Of The Mayor By All The Electors Of The Area

- (a) The voting system in a contested election of the Mayor all the electors of the area is optional preferential.

44 **2016 Local Government Elections Report**, State of Victoria (Victorian Electoral Commission) 2017:-
https://www.vec.vic.gov.au/files/Report_on_the_conduct_of_the_2016_Local_Government_Elections.pdf

45 **Optional Preferential Voting**:- [Optional Preferential Voting](https://en.wikipedia.org/wiki/Optional_preferential_voting):-
https://en.wikipedia.org/wiki/Optional_preferential_voting

46 NSW, **Local Government Act 1993**:- <https://www.legislation.nsw.gov.au/#/view/act/1993/30/historical2018-12-14>

47 NSW, **Local Government (General) Regulations 2005**:-
<https://www.legislation.nsw.gov.au/#/view/regulation/2005/487>

285 Voting System For Election Of Councillors

The voting system in a contested election of a councillor or councillors is to be:

- (a) optional preferential, if only one councillor is to be elected, or*
- (b) proportional, if 2 or more councillors are to be elected.*

NSW, Local Government (General) Regulations 2005

Schedule 4 Counting Of Votes Under Optional Preferential System

1 General

This Schedule sets out the method of counting votes according to the optional preferential system. The counting is to be carried out under the supervision of the returning officer.

2 Definitions

In this Schedule:

***absolute majority** of votes means a greater number than one-half of the whole number of ballot-papers other than informal and exhausted ballot-papers.*

***continuing candidate** means a candidate not already elected or excluded from the count.*

***exhausted ballot-paper** means a ballot-paper on which there is no indication of a next preference for a continuing candidate.*

***next preference** means the first of the subsequent preferences marked on a ballot-paper that is not given to an elected or excluded candidate. However, if there is a repetition or omission in the consecutive numbering of preferences marked on a ballot-paper (other than a repetition or omission that makes the ballot-paper informal), only those preferences preceding the repetition or omission can be taken into account.*

***unrejected ballot-papers** means all ballot-papers not rejected as informal.*

3 One candidate to be elected

If only one candidate is to be elected, the votes are to be counted and the result of the election ascertained in accordance with the following procedures:

- (b) the unrejected ballot-papers are arranged under the names of the respective candidates by placing in a separate parcel all those on which a first preference is indicated for the same candidate,*
- (c) the total number of first preferences given for each candidate on such ballot-papers are then counted,*
- (d) the candidate who has received the largest number of first preference votes is elected if that number constitutes an absolute majority of votes,*
- (e) if no candidate has received an absolute majority of first preference votes, a second count is made,*
- (f) on the second count the candidate who has received the fewest first preference votes is excluded, and each unexhausted ballot-paper counted to him or her is counted to the candidate next in the order of the voter's preference,*

- (g) if a candidate then has an absolute majority of votes, he or she is elected, but if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the fewest votes and counting each of his or her unexhausted ballot-papers to the continuing candidate next in the order of the voter's preference is repeated until one candidate has received an absolute majority of votes,*
- (h) the candidate who has received an absolute majority of votes is elected.*

4 Two candidates to be elected

If 2 candidates are to be elected, the votes are to be counted and the result of the election ascertained in accordance with the following procedures:

- (i) one of the candidates is elected in accordance with clause 3 of this Schedule,*
- (j) all the unrejected ballot-papers are rearranged under the names of the respective candidates in accordance with the first preferences marked on the ballot-papers, except that each ballot-paper on which a first preference for the elected candidate is indicated is placed in the parcel of the candidate next in the order of the voter's preference,*
- (k) the number of ballot-papers in the parcel of each candidate is counted and the total number of votes so counted to each candidate is ascertained,*
- (l) if a candidate then has an absolute majority of votes he or she is elected. If not, the count proceeds according to clause 3 (d), (e) and (f) of this Schedule, until one candidate has received an absolute majority of votes,*
- (m) clause 3 (d) and (e) of this Schedule is to be read for the purposes of this clause as if a reference in those paragraphs to first preference votes were a reference to all the votes counted to a candidate under this clause,*
- (n) the candidate who has received an absolute majority of votes is elected.*

5 Exhausted ballot-papers

In the process of counting under clause 3 or 4 of this Schedule, exhausted ballot-papers are set aside as finally dealt with and are not taken into account in the election of a candidate under the appropriate clause.

6 Equality

- (1) If, on any count at which the candidate with the fewest number of votes has to be excluded, 2 or more candidates have an equal number of votes (that number being fewer than the number of votes that any other candidate has or those candidates being the only continuing candidates):*
 - (a) the candidate who had the fewest votes at the last count before the equality occurred is excluded, or*
 - (b) if they had an equal number of votes at all preceding counts, the candidate whose name is on a slip drawn in accordance with subclause (2) is excluded.*
- (2) For the purposes of subclause (1) (b) the returning officer writes the names of the candidates who have an equal number of votes on similar slips of paper. The returning officer then folds the slips so as to prevent the names being seen, mixes them, and draws one slip at random.*

7 End of counting

The process of counting each of the unexhausted ballot-papers of an excluded candidate to the continuing candidate next in the order of the voter's preference is

not repeated if there is only one continuing candidate. Instead, that continuing candidate is elected.

Schedule 5 Counting of votes under proportional system

1 General

This Schedule sets out the method of counting votes according to the proportional system. The counting is to be carried out under the supervision of the returning officer.

2 Definitions

In this Schedule:

continuing candidate means at any given time a candidate not already elected or not already excluded from the poll.

exhausted ballot-paper means a ballot-paper on which there is no indication of a next preference for a continuing candidate.

fraction includes a decimal fraction.

next preference means the first of the subsequent preferences marked on a ballot-paper that is not given to an elected or excluded candidate. However, if there is a repetition or omission in the consecutive numbering of preferences marked on a ballot-paper (other than a repetition or omission that makes the ballot-paper informal), only those preferences preceding the repetition or omission can be taken into account.

quota means the number of votes sufficient to elect a candidate.

surplus, at any given time, means:

- (a) except as provided in paragraph (b)—the number of votes which a candidate has obtained at that time in excess of the quota, or
- (b) if the number of exhausted ballot-papers counted to a candidate at that time is greater than the quota—the number of votes which the candidate has obtained at that time in excess of the number of those exhausted ballot-papers.

3 Parcels of first preferences

The ballot-papers are divided into parcels according to the names of the candidates for whom the first preferences on the ballot-papers are recorded.

4 Quota

The aggregate number of first preferences is divided by one more than the number of candidates to be elected. The quotient (disregarding any remainder), increased by one, becomes the quota.

5 Election on first preferences

1. *A candidate who has, upon the first preferences being counted, a number of first preferences equal to or greater than the quota is elected.*
2. *If the number of first preferences obtained by the candidate is equal to the quota, all the ballot-papers on which first preferences are recorded for that candidate are set aside as finally dealt with.*

6 Surplus on first count

- (1) If the number of first preferences obtained by any candidate exceeds the quota, the surplus is transferred to the continuing candidates next in the order of voters' preferences, in accordance with the following directions:*
 - (a) the ballot-papers on which first preferences are recorded for the elected candidate are re-examined, and the number of second preferences, or (in accordance with clause 12 of this Schedule) third or next consecutive preferences, recorded on them for each continuing candidate and the number of exhausted ballot-papers is counted,*
 - (b) the surplus is divided by the total number of first preferences recorded for such elected candidate (excluding any exhausted ballot-papers). The transfer value is equal to the resulting fraction or the first 4 digits of the resulting decimal fraction or (if the fraction exceeds 1) to 1,*
 - (c) the number of second or other preferences, ascertained in paragraph (a) as being recorded for each continuing candidate, is multiplied by the transfer value,*
 - (d) the resulting number for each continuing candidate is added to the number of votes obtained by the candidate on the counting of first preferences,*
 - (e) however, if as a result of the multiplication referred to in paragraph (c), any fraction results, so many of those fractions (taken in the order of their magnitude and beginning with the largest) as are necessary to ensure that the number of votes transferred equals the number of the elected candidate's surplus votes are treated as equal to 1, and the remaining fractions are ignored,*
 - (f) if, as a result of the multiplication referred to in paragraph (c), 2 or more fractions are equal and one of them is to be treated as equal to 1, the fraction arising from the largest number of second or other preferences referred to in paragraph (a) is treated as the largest, and if the numbers of those preferences are equal, the fraction credited to the candidate with the highest number of votes at the last count or transfer at which the candidates with the equal number of preferences had an unequal number of votes is treated as the largest, and if those candidates have had an equal number of votes at all preceding counts and transfers, the returning officer decides by lot which fraction is taken to be the largest,*
 - (g) from the ballot-papers on which a second or other preference is recorded for any continuing candidate, a number of ballot-papers equal to the number of votes directed by paragraph (d) to be credited to the candidate are selected at random, and these are to be placed in a separate parcel and transferred to the candidate,*
 - (h) all ballot-papers of the elected candidate not transferred under paragraph (g) (including any exhausted ballot-papers) are set aside as finally dealt with, being the ballot-papers by which the candidate is elected,*
 - (i) a transfer of votes under this clause is not made unless the surplus of the elected candidate, together with any other surpluses not transferred, exceeds the difference in numbers between the votes of the 2 continuing candidates lowest on the poll.*
- (2) However, this clause is subject to clause 11 of this Schedule, and if at any time there is one remaining vacancy which can be filled under that clause, no further transfer under this clause can be made.*

7 Surplus on transfer

- (1) If by a transfer of a surplus on the count of first preferences or of a surplus under this clause the number of votes obtained by a candidate equals or exceeds the quota, the candidate is elected.*

- (2) *In that case, despite the fact that the candidate has reached the quota, the transfer is to be completed, and all the votes to which the candidate is entitled from the transfer are to be transferred to the candidate.*
- (3) *If by a transfer the number of votes obtained by a candidate equals the quota, the whole of the ballot-papers on which those votes are recorded are set aside as finally dealt with, being the ballot-papers by which the candidate is elected.*
- (4) *If by a transfer the number of votes obtained by a candidate exceeds the quota, the surplus is transferred to the continuing candidates next in the order of the voters' respective preferences in the following manner:*
 - (a) *the ballot-papers transferred to the elected candidate in the last transfer are re-examined, and the number of next consecutive preferences recorded for each continuing candidate on the papers and the number of exhausted ballot-papers are counted,*
 - (b) *the surplus is divided by the total number of ballot-papers transferred to the elected candidate in the last transfer (excluding any exhausted ballot-papers). The transfer value is equal to the resulting fraction or the first 4 digits of the resulting decimal fraction or (if the fraction exceeds 1) to 1,*
 - (c) *the surplus is transferred and the papers dealt with in a manner similar to that prescribed by clause 6 of this Schedule for the transfer of a surplus arising at the first count,*
 - (d) *a transfer of votes under this subclause is not made unless the surplus of the elected candidate, together with any other surpluses not transferred, exceeds the difference in numbers between the votes of the 2 continuing candidates lowest on the poll.*
- (5) *However, this clause is subject to clause 11 of this Schedule, and if at any time there is one remaining vacancy which can be filled under that clause, no further transfer under this clause can be made.*

8 Transfer of surpluses

- (1) *If, on the counting of the first preferences or on any transfer, more than one candidate has a surplus, the largest of the surpluses is transferred, then the next largest, and so on.*
- (2) *However, if there is an untransferred surplus obtained at a previous count or transfer, that surplus is transferred before those caused by subsequent transfers.*
- (3) *If there are equal surpluses at the first count, the returning officer decides by lot which surplus is transferred first.*
- (4) *If there are equal surpluses at a later count or at a transfer, the surplus of the candidate who was the highest on the poll at the count or transfer at which the tied candidates last had an unequal number of votes is the first to be transferred. If those candidates have had an equal number of votes at all preceding counts or transfers, the returning officer decides by lot which candidate's surplus is the first to be transferred.*

9 Exclusion of lowest candidates

- (1) *If, after the first preferences have been counted and transfers of surpluses have been made, fewer than the number of candidates required to be elected have obtained the quota, the candidate lowest on the poll is excluded.*
- (2) *All the unexhausted votes obtained by that candidate are transferred in one transfer to the continuing candidates who, on the ballot-papers on which such votes are recorded, are next in the order of the voters' respective preferences.*
- (3) *Any exhausted ballot-papers are set aside as finally dealt with.*
- (4) *The same process of exclusion and transfer is repeated until all the candidates, except the number required to be elected, have been excluded. At that point, the continuing candidates who have not already been elected are elected.*

- (5) *Whenever it becomes necessary to exclude a candidate and two or more candidates have the same number of votes and are lowest on the poll, the one who was lowest on the poll at the last count or transfer at which they had an unequal number of votes is first excluded.*
- (6) *If those candidates have had equal numbers of votes at all preceding counts or transfers, or there has been no preceding count, the returning officer decides by lot which candidate is first excluded.*
- (7) *This clause is subject to clause 11 of this Schedule, and if at any time there is one remaining vacancy which can be filled under that clause, no further exclusion under this clause can be made.*

10 Effect of reaching quota while transfers are proceeding

- (1) *If by a transfer under clause 9 of this Schedule, the number of votes obtained by a candidate equals or exceeds the quota, the candidate is elected.*
- (2) *In that case, despite the fact that the candidate has reached the quota, the transfer is to be completed, and all the votes to which the candidate is entitled from the transfer are to be transferred to the candidate.*
- (3) *If by a transfer under clause 9 of this Schedule, the number of votes obtained by a candidate equals the quota, the whole of the ballot-papers on which those votes are recorded are set aside as finally dealt with, being the ballot-papers by which the candidate is elected.*
- (4) *If by a transfer under clause 9 of this Schedule, the number of votes obtained by a candidate exceeds the quota, the surplus is transferred to the continuing candidates next in the order of the voters' respective preferences in the manner set out in clause 7 (4) of this Schedule.*

11 Election without reaching quota

- (1) *When the number of continuing candidates is reduced to the number of vacancies remaining unfilled the continuing candidates are elected, even if they have not reached the quota.*
- (2) *When only one vacancy remains unfilled and the votes of one continuing candidate exceed the total of all the votes of the other continuing candidates, together with any surplus not transferred, that candidate is elected.*
- (3) *When more than one vacancy remains unfilled and the votes of the candidate who (if all the vacancies were filled by the successive election of the continuing candidates with the largest number of votes) would be the last to be elected exceed the total of any surplus not transferred plus the votes of all the continuing candidates with fewer votes than that candidate, that candidate and all the other continuing candidates who do not have fewer votes than that candidate are elected.*
- (4) *When only one vacancy remains unfilled, and there are only 2 continuing candidates, and those 2 candidates each have the same number of votes, and no surplus votes remain capable of transfer, one candidate is excluded in accordance with clause 9 (5) and (6) of this Schedule and the other is elected.*

12 Determining order of preference

In determining which candidate is next in the order of the voter's preference, any candidates who have been declared elected or who have been excluded are not considered, and the order of the voter's preference is determined as if the names of those candidates had not been on the ballot-paper.

13 Deciding by lot

- (1) *For the purposes of excluding a candidate by lot under clause 9 or 11 of this Schedule, the names of the candidates who have equal numbers of votes are written on similar slips of paper by the returning officer, the slips are folded by the returning officer so as to prevent*

- the names being seen, the slips are mixed and one is drawn at random by the returning officer and the candidate whose name is on the drawn slip is excluded.*
- (2) For the purpose of deciding by lot which candidate's surplus is first to be transferred under clause 8 of this Schedule, the names of the candidates who have equal surpluses are written on similar slips of paper by the returning officer, the slips are folded by the returning officer so as to prevent the names being seen, the slips are mixed, one of the slips is drawn at random by the returning officer and the candidate whose name is on the drawn slip is the one whose surplus is the first to be transferred.*
 - (3) For the purposes of determining the largest fraction under clause 6 of this Schedule, the names of the candidates who have been credited with the equal fractions are written on similar slips of paper by the returning officer, the slips are folded by the returning officer so as to prevent the names being seen, the slips are mixed, one of the slips is drawn at random by the returning officer and the candidate whose name is on the drawn slip is taken to have been credited with the largest fraction.*

14 Check counting

- 1. A scrutineer may at any time during the counting of the votes, either before the commencement or after the completion of the transfer of the votes (whether original or transferred votes) of any candidate, request the returning officer to make a check count of the papers then comprised in the parcels of all or any candidates (but not of papers set aside as finally dealt with).*
- 2. The returning officer is to make a check count immediately on receiving the request, unless the returning officer has already made a check count of the same votes.*
- 3. The returning officer may also recount votes as often as he or she thinks necessary to establish accuracy.*

15 Records and returns of voting and transfers

- 1. At each step of the proceedings the returning officer is to keep a record of the number of votes counted for each candidate, the transfer of surpluses, the exclusion of candidates and the transfer of their votes, the votes which are found to be informal, and those which at some stage become exhausted votes.*
- 2. At the same time as the declaration of the election, the returning officer is to exhibit in some conspicuous position at the office of the relevant council a record of the voting, counting and transfers.*
- 3. The council must, upon application made to it by any person, deliver or send to the person a copy of the record of voting, counting and transfers.*

This NSW legislation should be adopted into the Victorian legislation to lower the informal vote.

There is a relationship between the number of electors enrolled in a ward and the average number of candidates standing for election in the ward. The following data is from the 2016 and 2017 Victorian, Local Government General Elections excluding Melbourne City.

Enrolments per Ward	Minimum	Average Number of Candidates	Maximum
1,000 - 9,999	2	5.0	14
10,000 - 19,999	2	6.8	20
20,000 - 29,999	4	10.6	25
30,000 - 39,999	7	14.2	25
40,000 -	11	20.3	41

There is a direct relationship between the number of candidates standing for election in a ward and the size of the informal vote⁴⁸. The following data is from the 2016 and 2017 Victorian, Local Government General Elections except for Melbourne City.

Candidates per Ward	Minimum Informal Vote (%)	Average Informal Vote (%)	Maximum Informal Vote (%)
1 - 4	0.41%	3.16%	6.34%
5 - 9	0.81%	3.63%	9.54%
10 - 14	2.59%	5.92%	12.15%
15 - 19	6.14%	8.19%	10.22%
20 - 24	7.56%	9.86%	15.38%
>= 25	9.22%	13.55%	16.82%

Compared to councils with smaller wards the electors in larger wards are disproportionately impacted by informal votes. For example, City of Casey's Balla Balla ward elects one councillor while all other City of Casey wards elect two councillors. Therefore Balla Balla ward has approximately half the number of electors compared to the other wards. Balla Balla ward since the move to multi-councillor wards has always had a relatively small number of candidates. In the 2016 City of Casey General Elections the informal vote for Balla Balla ward was 2.81%. The average informal vote for all other City of Casey wards was 7.49% while the maximum informal vote was 10.27% in the Four Oaks ward. With up to three times the chance of submitting an informal ballot paper all other electors in City of Casey wards do not enjoy electoral equality with Balla Balla electors.

The proposed move to single-councillor wards does have an advantage of ensuring all wards in a council have a similar number of electors. Unfortunately this does not address the Donkey Vote problem. A drawback is related to councils with high or grossly uneven population growth. Refer to the **Interface Councils** section for expansion of this topic.

⁴⁸ This table is based on the 2017 Greater Geelong City General Elections plus the 2016 General Elections for all Victorian councils except Melbourne City.

4. Recommendations

4.1 Implement Optional Preferential Voting (OPV).

4.2 If OPV is unacceptable then implement Semi-Optional Voting

Interface Councils

There is significant overlap in the following two sections of the submission where related statistics have been presented.

Interface councils form the bridge between Country/Rural City Councils and Melbourne Metropolitan Councils. They lay on an arc around Melbourne and typically have one or more country or rural city councils as neighbours e.g. Cardinia Shire, Yarra Ranges Shire, etc.

[Victorian Local Government Comparator Groups, LGPRF Practice Note No. 5](#)⁴⁹, Page 1 states:

Methodology

The methodology for selecting groupings is based on the closest practical alignment with the membership of the following existing self-identified groups:

- *Interface Group of Councils*⁵⁰;
- *Regional Cities Victoria*; and
- *Rural Councils Victoria*.

A population threshold of 15,000 has been applied to determine membership of the small and large rural councils, rounded to the nearest thousand. It should be noted that there is otherwise no underpinning statistical or demographic factors for selection of these groupings.

Review

LGV commits to review the groupings every five years in line with the National Census to ensure the groupings are acceptable as a basis for comparing performance. The review will be undertaken in consultation with the LGPRF Steering Committee which will be made up of sector representatives.

Victorian Local Government Comparator Groups

	<i>Interface</i>	<i>Population</i>
1.	<i>Cardinia</i>	87,008
2.	<i>Casey</i>	283,415
3.	<i>Hume</i>	188,332
4.	<i>Melton</i>	127,677
5.	<i>Mornington Peninsula</i>	153,800
6.	<i>Nillumbik</i>	62,872
7.	<i>Whittlesea</i>	187,996
8.	<i>Wyndham</i>	199,715
9.	<i>Yarra Ranges</i>	150,098

49 Department of Environment, Land, Water And Planning, **Local Government Comparator Groups Practice Note:-** http://knowyourcouncil.vic.gov.au/_data/assets/pdf_file/0009/29439/DOC-15-313642-Victorian-Local-Government-Comparator-Groups-2015-FINAL.pdf

50 Note that, despite being a member of the Interface Group of Councils, Mitchell Shire Council has been included in the large rural grouping as three quarters of their population reside in the rural part of the Shire

In South-East Melbourne the planning for population growth has pushed the Urban Growth Boundary effectively passed City of Casey into Cardinia Shire. Now there are major centres of population growth in Cardinia Shire in the Officer and Pakenham precincts. While the major areas of growth in the City of Casey are now on the outer edges of the established suburbs with significant growth projected towards the East and South-East e.g. refer to the Growth Areas Authority, [South East Growth Corridor Plan](#)⁵¹.

City of Casey Population in Perspective

To put City of Casey into perspective using Australian Bureau of Statistics' 2018 population estimates^{52,53}:

Location	Population (2018 Estimate)
City of Casey	340,419
Darwin	134,544
Hobart	213,502
Northern Territory	247,200

City of Casey's population with its higher growth rate is closing in on the 422,500 of the Australian Capital Territory (ACT) and has grown to over 65% of the State of Tasmania (529,900).

The City of Casey Council web site refers to the .id Consulting Pty. Ltd. website to provide a community profile. The .id community profile [Estimated Residential Population](#)⁵⁴ as of the 30th June 2018, is 340,419. This number is sourced from the Australian Bureau of Statistics, [Regional Population Growth, Australia, 2017-18 \(3218.0\)](#)⁵⁵, Datacube - Population Estimates by Local Government Area (ASGS 2018), 2017 to 2018, Table 2. Estimated Resident Population, Local Government Areas, Victoria.

51 Growth Areas Authority, **South East Corridor Plan**:- <https://vpa-web.s3.amazonaws.com/wp-content/uploads/2012/11/South-East-Growth-Corridor-Plan.pdf>

52 Australian Bureau of Statistics, **Regional Population Growth, Australia (3218.0)**, 2017-18, Data cube - Population Estimates by Significant Urban Area (ASGS 2016), 2008 to 2018, Table 1:- <https://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/3218.02017-18?OpenDocument>

53 Australian Bureau of Statistics, **Australian Demographic Statistics (3101.0)**, Sep 2018:- <https://www.abs.gov.au/ausstats/abs@.nsf/0/D56C4A3E41586764CA2581A70015893E?Opendocument>

54 .id Consulting Pty. Ltd., City of Casey, Estimated Resident Population:- <https://profile.id.com.au/casey/population-estimate>

55 Australian Bureau of Statistics, **Regional Population Growth, Australia, 2017-18 (3218.0)**, Data cube - Population Estimates by Local Government Area (ASGS 2018):- <https://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/3218.02017-18?OpenDocument>

An indication of population growth is:

Year (ending June 30th)	Estimated Population	Change In Population	Change (Percent)	Total Change (Percent)
2008	237,529			
2012	269,447	31,918	13.44%	13.44%
2016	312,789	43,342	16.09%	31.68%
2020 ⁵⁶	367,715	54,926	17.56%	54.81%

The [.id Consulting Pty Ltd, City of Casey, Forecast population, households and dwellings](#)⁵⁷ web page stated:

The forecasts were last updated in March 2019 by .id, the population experts, on behalf of the City of Casey. ...

The Total Change has been calculated here to indicate the past growth rate.

Year	Estimated Population	Total Change (Percent)
2008	237,529	
2019	356,555	50.11%
2021	380,531	60.20%
2026	433,821	82.64%
2031	482,626	103.19%
2036	519,702	118.80%
2041	549,190	131.21%

Details for the three councils with the highest number of electors per councillor in the Metropolitan Melbourne Table were:

Local Council	Electors per councillor	Councillors	Electors estimate as at 2018
Brimbank City	12,357	11	135,931
Boroondara City	13,335	10	133,357
Moreland City	12,071	11	109,744

The statistics for City of Casey place it well outside this range:

Local Council	Electors per councillor	Councillors	Electors estimate as at 2018
City of Casey	19,299	11	212,291

⁵⁶ This estimate was based on the 2018 growth rate and is not provided by .id Consulting Pty. Ltd.

⁵⁷ .id Consulting Pty Ltd, City of Casey, Forecast Population, households and dwellings:-

<https://forecast.id.com.au/casey/Population-households-dwellings>

The 2019 Boroondara City Council Representation Review, Preliminary Report – released by VEC stated:

In summary, Boroondara City Council has one of the highest voter-to-councillor ratios of metropolitan Melbourne councils, has undergone decades of sustained population growth, contains and represents a highly dense population and faces significant emerging challenges around residential and commercial developments, cultural diversity and increasing communities of interest. These significant policy, planning and socio-demographic challenges, alongside the already high voter to councillor ratio compared with other local councils, lead the VEC to recommend an increase in the number of councillors for Boroondara City Council.

VEC proposes increasing the number of Boroondara councillors from 10 to 11 to address the increased voter numbers that are just a fraction of the City of Casey. This additional councillor would reduce Boroondara City from 13,335 electors per councillor down to 12,123.

For the 2016 City of Casey General Elections there were 197,874 electors on the roll while the 2016 census population was 312,789 which gives a scaling factor of ~0.63. There will be more than 2 years population growth from June 30th, 2018 to the close of the rolls in 2020. Doubling the 13,648 population growth of 2018 provides a low estimate of population growth to the 2020 election (+27,296). Given a 2020 population of 367,715 and using the exact 2016 scaling factor would equate to an estimated 232,621 electors.

Using the 232,621 elector estimate with 11 councillors would equate to 21,147 electors per councillor while 12 councillors would equate to 19,385 electors per councillor. In both cases the end result is an increase over the current number of electors per councillor. Even with an increase to 12 City of Casey councillors the number of electors per councillor is unreasonable i.e. larger than all metropolitan councils, the surrounding local government areas and every other Victorian council.

Representation Reviews can not resolve all population related issues. This is a chronic problem in City of Casey that has been noted in multiple reports to the Minister. Unfortunately population issues are not efficiently addressed by the State Government and any mooted changes become highly charged due to local opposition and party political conflict. Under the current Act these issues can only be addressed by a Local Government Act 1989, Part 10 Local Government Panel. Such a panel is not going to address issues on a continuing basis or necessarily implementing a whole of State review on a regular basis.

For State electorates parliament has referred all boundary issues to the [Electoral Boundaries Commission](#)⁵⁸ (EBC). The EBC home page states:

The Electoral Boundaries Commission (EBC) is an independent statutory body constituted under the [Electoral Boundaries Commission Act 1982](#)⁵⁹ (external link)

Its role is to divide Victoria into electoral regions for the State's Legislative Council (Upper House) and electoral districts for the Legislative Assembly (Lower House).

To ensure each vote in Victorian State elections has equal value and each elector is represented equally in Parliament, the EBC must establish and maintain electorates of

58 Electoral Boundaries Commission:- <http://www.ebc.vic.gov.au/Default.html>

59 **Electoral Boundaries Commission Act 1982**:-

http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubLawToday.nsf/a12f6f60fbd56800ca256de500201e54/ac666cf23eb65befca257b0f007ad694!OpenDocument

approximately equal enrolment. This is defined as not varying by more than 10% from the average enrolment per seat for each House.

The EBC is composed of independent and impartial officeholders, and is not responsible to any Minister or Government.

New South Wales has established a Local Government Boundaries Commission in their [Local Government Act 1993](#)⁶⁰ and its functions are:

NSW, Local Government Act 1993

Chapter 9 How are councils established?

Part 3 Local Government Boundaries Commission

263 Functions of the Boundaries Commission

(1) The Boundaries Commission is required to examine and report on any matter with respect to the boundaries of areas and the areas of operation of county councils which may be referred to it by the Minister.

(2) For the purpose of exercising its functions, the Boundaries Commission:

(a) may hold an inquiry if the Minister so approves, and

(b) must hold an inquiry if the Minister so directs,

but may not hold an inquiry otherwise than as referred to in paragraph (a) or (b).

(2A) Despite subsection (2), the Boundaries Commission must hold an inquiry for the purpose of exercising its functions in relation to a proposal for the amalgamation of two or more areas that has been referred to it in accordance with section 218F.

(2B) Reasonable public notice must be given of the holding of an inquiry under this section.

(3) When considering any matter referred to it that relates to the boundaries of areas or the areas of operations of county councils, the Boundaries Commission is required to have regard to the following factors:

(a) the financial advantages or disadvantages (including the economies or diseconomies of scale) of any relevant proposal to the residents and ratepayers of the areas concerned,

(b) the community of interest and geographic cohesion in the existing areas and in any proposed new area,

(c) the existing historical and traditional values in the existing areas and the impact of change on them,

(d) the attitude of the residents and ratepayers of the areas concerned,

(e) the requirements of the area concerned in relation to elected representation for residents and ratepayers at the local level, the desirable and appropriate relationship between elected representatives and ratepayers and residents and such other matters as it considers relevant in relation to the past and future patterns of elected representation for that area,

(e1) the impact of any relevant proposal on the ability of the councils of the areas concerned to provide adequate, equitable and appropriate services and facilities,

(e2) the impact of any relevant proposal on the employment of the staff by the councils of the areas concerned,

(e3) the impact of any relevant proposal on rural communities in the areas

60 NSW, Local Government Act 1993:- <https://www.legislation.nsw.gov.au/#/view/act/1993/30/historical2018-12-14>

concerned,

(e4) in the case of a proposal for the amalgamation of two or more areas, the desirability (or otherwise) of dividing the resulting area or areas into wards,

(e5) in the case of a proposal for the amalgamation of two or more areas, the need to ensure that the opinions of each of the diverse communities of the resulting area or areas are effectively represented,

(f) such other factors as it considers relevant to the provision of efficient and effective local government in the existing and proposed new areas.

(4) The Boundaries Commission is not entitled to examine or report on any matter relating to the area of operations of a county council constituted or proposed to be constituted for the supply of electricity.

(5) The Boundaries Commission must allow members of the public to attend any inquiry held by the Commission under this section.

(6) The Boundaries Commission may continue with an examination or inquiry even though a commissioner or acting commissioner replaces another commissioner during the course of the examination or inquiry.

(7) The Supreme Court may not make an order in the nature of prohibition in respect of, or an order for removing to the Court or quashing, any decision or proceeding made or conducted by the Boundaries Commission in connection with the exercise of its functions.

The power to review and adjust council boundaries should be passed to the Victorian EBC working in-conjunction with the VEC. Guidelines should be provided such as a timetable for regular Local Government boundary reviews, conditions to trigger a review, council name recommendations, etc.

Boundary Creep

The [2015-16 Electoral Representation and Subdivision Review Report](#)⁶¹ included the following:

Boundary ‘creep’

The concept of boundary ‘creep’ reflects the progressive movement of ward boundaries over several reviews. Single-councillor ward structures are more susceptible to boundary ‘creep’ as the ratio of enrolled voters per councillor is less able to absorb changes so the ±10 per cent tolerance provided by the Act is quickly exceeded. Consequently, boundary adjustments are required more often.

In most cases, the net result of successive boundary adjustments without changes to the electoral structure is wards that no longer reflect their original rationale. One of the more common arguments put forward to retaining single-councillor wards, for example, is the presence of distinct, localised communities or towns. As successive reviews occur, ward boundaries may need to be considered that split communities or follow illogical routes through residential streets and along boundaries that dissect a neighbourhood and dilute its representation.

The Four Oaks ward of the City of Casey clearly illustrates boundary creep. It was originally the ward for the suburbs of Endeavour Hills and Lysterfield South in the north-west corner of the City of Casey. Four Oaks was the name of the home at 13 Cardigan Street, Endeavour Hills. This was the original homestead for a considerable portion of Endeavour Hills. Through a series of reviews Four Oaks ward absorbed from Edrington ward the suburbs of Narre Warren North then Harkaway with a larger percentage of Narre Warren. To compensate Edrington ward which surrendered the north-east area of the City of Casey has been required to expanded south into Clyde North.

Practically in every review the Four Oaks ward boundary was redrawn expanding into Edrington ward. The area of Four Oaks has grown from ~29 sq km to ~60 sq km.

Review	Boundary	Suburbs
2005 Representation Review 28.846 sq km	Narre Warren North Road Heatherton Road Hallam North Road Churchill Park Drive	Endeavour Hills Lysterfield South Narre Warren
2008 Subdivision Review 43.933 sq km	Narre Warren North Road Ernst Wanke Road Robinson Rd Troups Creek Harkaway Road	
2012 Representation Review 59.58 sq km	Ryelands Drive Hillcrest Avenue Shinners Avenue Ernst Wanke Road Harkaway Road	Endeavour Hills Harkaway Lysterfield South Narre Warren Narre Warren North

⁶¹ **2015-16 Electoral Representation and Subdivision Review Report**, State of Victoria (Victorian Electoral Commission) 2017:- <https://www.vec.vic.gov.au/files/2015-2016-EvaluationReportRepresentationReview.pdf>

In the 2019 City of Casey Representation Review the Four Oaks boundary may be required to impact Berwick, Doveton or Eumemmerring to maintain an appropriate number of electors.

Balla Balla Ward has been a single councillor ward for many years and encompasses rural areas plus the coastal communities of the City of Casey. This ward has always returned a single councillor so the ward boundaries have basically only been modified to account for changes in the City of Casey's elector to councillor ratio i.e. population growth.

The VEC website records for the 2003 Balla Balla ward election states there were 10,030 electors. The ward's community of interests were coastal and rural. For 2020 with 11 councillors there is a prediction of a 21,147 elector to councillor ratio for the City of Casey. Even an expansion to 12 councillors with a reduced 19,385 elector to councillor ratio forces a large number of urban electors to be added to a base consisting of the ~10,000 rural and coastal community population. Examination of ABS small area census data for Tooradin and the other coastal communities indicates there has never been an equivalent population explosion in the coastal communities to account for these elector numbers in Balla Balla ward. Therefore the original rural and coastal communities are being swamped by an influx of remotely located, urban electors.

The [Report of local government electoral activity 2008-09](#)⁶², **Part III Report of local government representation reviews conducted by the VEC between 2004 and 2008**, included the following:

Recommendation 7

Consideration of matters beyond the scope of the review.

The Government should consider the following issues that were raised during the public consultation process, but are outside the scope of the review. The VEC has not investigated these issues, but has included them in this report for the Government's consideration.

(i) *Changing the external boundaries*

...

The VEC notes that it became apparent that there were communities of interest in some parts of some municipalities which were quite distinct, particularly in the State's largest municipalities. In the City of Casey, for example, there is a large rural area, which contains around 10,000 voters and has little community of interest with dense urban areas like Narre Warren. In terms of population, this rural area is larger than many regional shires, yet it is only represented by one councillor out of eleven due to the size of the City of Casey as a whole.

For both Balla Balla and Four Oaks wards the impact of population growth has been to significantly change ward boundaries or characteristics. For Interface Councils like City of Casey the restriction to a single-councillor ward structure will mean a new set of ward boundaries at each election. Worst case, a resident could experience a different ward at each election with no continuity of elected councillor.

62 **Report of local government electoral activity 2008-09, Part III Report of local government electoral representation reviews conducted by the VEC between 2004 and 2008**, State of Victoria (Victorian Electoral Commission) October 2009:- <https://www.vec.vic.gov.au/files/LG-2009-Report-Part3.pdf>

The [2005 City of Casey Council Representation Review, Final Report](#)⁶³, Page 25 Media Fact Sheet provided an 11 single-councillor ward map with elector numbers and deviations. In the **VEC's Findings** Section, Page 13 a possible single-councillor ward structure was provided (Diagram 1). The VEC report stated:

The VEC also notes that single-councillor wards are less able to withstand growth without exceeding the $\pm 10\%$ voter number variation than multi-councillor wards. Multi-councillor wards therefore preserve the “one vote, one value” principle for longer than single-councillor wards.

For these reasons, the VEC considers a single-councillor ward structure to be quite inappropriate.

For all subsequent elections City of Casey had 11 councillors. To illustrate the impact of a mandatory single-councillor ward structure on Interface Councils the VEC should be required to produce a sequence of single-councillor ward maps for all City of Casey elections from the initial amalgamation of Berwick and Cranbourne Councils through to the 2020 elections. This should not be very onerous as the early City of Casey elections used single-councillor wards.

The VEC should provide elector numbers and deviations allowing for the uncertainty between the dates of past reviews and their associated election days. VEC should also provide comments on the likely impact on communities of interests, difficulty achieving reasonable recommendations, and any other associated matters. This will highlight any practical shortcomings to the proposed structural change to single-councillor wards.

Introducing mandatory single-councillor wards has not yet been demonstrated as a practical alternative to the current multi-councillor ward structures for high growth Interface Councils such as City of Casey. For low growth councils there are many advantages to changing from multi-councillor to single-councillor wards:

- Smaller candidate fields as the same number of candidates would be divided into many more wards.
- A smaller candidate field reduces the number of wasted and informal votes.
- A smaller candidate field decreases the donkey vote as voters are likely to carefully vote for a greater percentage of the available field i.e. lower percentage of the field will be unknown candidates.

The alternative proposed to single-councillor wards is the unsubdivided ward structure common to rural councils. For the City of Casey an unsubdivided ward structure would require ballot papers with over 80 candidates. Given a Candidate Statement limitation of 200 words per candidate that will require an elector to read over 16,000 words to decide how to number a ballot paper from 1 to over 80. Obviously not a reasonable alternative to the proposed, single-councillor ward structure.

The City of Casey **2005 Representation Review, Final Report, Number of Councillors Section**, Page 11 also stated:

Most response submissions supported options with eleven councillors, though several submissions advocated twelve-councillor options. It was suggested that legislative change could solve the problem of the mayoral casting vote. This, however, is beyond the scope of the review.

...

63 **2005 Casey City Council Representative Review, Final Report:-**
<https://www.vec.vic.gov.au/resources/caseyFinalReport2005.pdf>

The VEC remains concerned about the consequences of an even number of councillors, and consequently recommends eleven councillors. The VEC notes the concern from the community that eleven councillors is not a sufficient number to service over 210,000 people and acknowledges that a case could be made for dividing the municipality into two separate municipalities. This, however, is beyond the scope of the current review to recommend.

To address population growth the power to review and adjust council boundaries should be passed to the EBC working in conjunction with the VEC. The alternative is to add responsibility of council boundaries to the VEC.

Guidelines should be provided in the Act such as a timetable for regular Local Government boundary reviews, conditions to trigger a review, council name recommendations, etc.

5. Recommendations

- 5.1 As a priority the VEC is to generate for the 2019 Local Government Act Review a sequence of single-council ward maps for the City of Casey from 1996 to 2024. This is to determine the impact of a mandatory, single-councillor ward structure on high growth Interface Councils.
- 5.2 A recommendation to the Minister for engagement of an independent commission (e.g. EBC, VEC, etc.), or appointment of a Local Government Act 1989, Part 10 Local Government Panel to review all Interface Council boundaries to recommend single-councillor and/or multi-councillor ward structures.
- 5.3 Power to review and adjust council boundaries to be assigned to the Electoral Boundaries Commission (EBC) working in-conjunction with the VEC.
- 5.4 If not acceptable for the EBC to review and adjust council boundaries then the power to review council boundaries to be assigned to the VEC.

Electors per Councillor

There is a significant overlap in this and the previous section of the submission where related statistics have been presented.

City of Casey is surrounded on three sides by much smaller metropolitan and interface councils while the fourth side is the shoreline of Western Port Bay. The **Local Council Representation Review - Submission Guide, Annex 1: Electoral structures of all Victorian councils** included:

Local Council	Number of electors per councillor	Number of councillors	Current estimate of electors as at 2018
Cardinia Shire	8,577	9	77,196
Frankston City	12,184	9	109,662
Greater Dandenong City	9,432	11	103,754
Knox City	13,186	9	118,678
Mornington Peninsular Shire	14,681	11	161,497
Yarra Ranges Shire	13,201	9	118,812
Average of Neighbours	11,877	10	114,933

The statistics for City of Casey place it well outside the range of its neighbours.

Local Council	Number of electors per councillor	Number of councillors	Current estimate of electors as at 2018
City of Casey	19,299	11	212,291

The [Estimated Residential Population](#)⁶⁴ on the City of Casey Council web site as of the 30th June 2018, is 340,419. This number is sourced from the Australian Bureau of Statistics, [Regional Population Growth, Australia \(3218.0\)](#)⁶⁵, Datacube - Population Estimates by Local Government Area (ASGS 2018), 2017 to 2018, Table 2. Estimated Resident Population, Local Government Areas, Victoria.

Year (ending June 30th)	Estimated Population	Change In Population	Change (Percent)
2006	220,440		
2007	228,496	8,056	3.65%
2008	237,529	9,033	3.95%
2009	246,678	9,149	3.85%
2010	254,471	7,793	3.16%
2011	261,282	6,811	2.68%

64 .id Consulting Pty. Ltd., City of Casey, **Estimated Residential Population**:-

<https://profile.id.com.au/casey/population-estimate>

65 ABS, **Regional Population Growth, Australia (3218.0)**:-

<https://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/3218.02017-18?OpenDocument>

Year (ending June 30th)	Estimated Population	Change In Population	Change (Percent)
2012	269,447	8,165	3.12%
2013	278,358	8,911	3.31%
2014	288,553	10,195	3.66%
2015	300,408	11,855	4.11%
2016	312,789	12,381	4.12%
2017	326,771	13,982	4.47%
2018	340,419	13,648	4.18%

For the 2016 City of Casey General Election there were 197,874 electors on the roll while the 2016 census population was 312,789 which gives a scaling factor of ~0.63. There will be more than 2 years population growth from June 30th, 2018 to the close of the rolls in 2020. Doubling the 13,648 population growth of 2018 provides a low estimate of population growth to the 2020 election (+27,296). Given a 2020 population of 367,715 and using the exact 2016 scaling factor would equate to an estimated 232,621 electors.

Using the 232,621 elector estimate with 11 councillors would equate to 21,147 electors per councillor while 12 councillors would equate to 19,385 electors per councillor. In both cases the end result is an increase over the current number of electors per councillor. Even with an increase to 12 City of Casey councillors the number of electors per councillor is unreasonable i.e. larger than all metropolitan councils, the surrounding local government areas and every other Victorian councils.

Details for the three councils with the highest number of voters per councillor plus Greater Dandenong City in the Metropolitan Melbourne Table were:

Local Council	Electors per councillor	Councillors	Electors estimate as at 2018
Brimbank City	12,357	11	135,931
Boroondara City	13,335	10	133,357
Moreland City	12,071	11	109,744
Greater Dandenong City	9,432	11	103,754

The 2019 Boroondara City Council Representation Review, Preliminary Report – released by VEC stated:

In summary, Boroondara City Council has one of the highest voter-to-councillor ratios of metropolitan Melbourne councils, has undergone decades of sustained population growth, contains and represents a highly dense population and faces significant emerging challenges around residential and commercial developments, cultural diversity and increasing communities of interest. These significant policy, planning and socio-demographic challenges, alongside the already high voter to councillor ratio compared with other local councils, lead the VEC to recommend an increase in the number of councillors for Boroondara City Council.

VEC proposed increasing the number of Boroondara councillors from 10 to 11 to address the increased voter numbers that are just a fraction of the City of Casey. This additional councillor

would reduce Boroondara City from 13,335 electors per councillor down to 12,123. Greater Dandenong City has been included as it is a City of Casey neighbour and has an estimated 9,432 voters per councillor.

A number of electors per councillor should be used as an automatic trigger for a more substantial review than a Representation Review. Preferably an independent review by the EBC. With the VEC to perform Subdivision and Representation Reviews at every second election (8 year cycle), the Electoral Boundaries Commission (EBC) should perform scheduled, Local Government boundary reviews in-conjunction with every second VEC Review (i.e. 16 year cycle).

An unscheduled Boundary Review should occur after the VEC has performed a total of 4 Representation and Subdivision reviews for a council since the last Boundary review. If there has not been an EBC review within 8 years and a council's population has increased 10% or more then the EBC should perform an internal, informal, desk review. The EBC may initiate an unscheduled, formal Boundary Review after a desk review indicates a formal review may be warranted. In other words, the EBC decides when to perform an unscheduled review triggered by population growth.

6. Recommendations

- 6.1 The VEC performs Representation Reviews for every second election (8 year cycle).
- 6.2 The Electoral Boundaries Commission (EBC) should perform scheduled, Local Government boundary reviews in-conjunction with every second VEC Representation Review (16 year cycle).
- 6.3 An unscheduled Boundary Review should occur after the VEC has performed a total of 4 Representation and Subdivision reviews for a council since the last Boundary review.
- 6.4 If there has not been an EBC review within 8 years and a council's population has increased 10% or more then the EBC should perform an internal, informal, desk review. The EBC may initiate an unscheduled, formal Boundary Review after a desk review indicates a formal review may be warranted.

Number Of Councillors

The Victoria's Local Government Act 1989, Part 2 - The Council, Section 5B - Constitution of Council, Clause (1) states:

A Council must consist of not fewer than 5 Councillors and not more than 12 Councillors.

2005 City of Casey Council Representation Review, Final Report⁶⁶,

8 Findings and Recommendation

8.1 Number Of Councillors

Issues Considered By The VEC, Page 10 included:

The VEC also noted its reluctance to recommend an even number of councillors for the Casey City Council. Even numbers of councillors can lead to tied votes, which may only be resolved by a mayoral casting vote. This situation effectively gives one councillor two votes and the right to make determinations on issues which are evenly divided. The VEC considered this possibility particularly concerning in Councils regularly faced with major policy and strategic planning decisions. The VEC understood this to be the case with the Casey City Council.

Taking into account the large population and the potential problems with even numbers of councillors, the VEC recommended the highest uneven number allowed by legislation (11 councillors) in all of its preliminary options for Casey.

The VEC has a well established pattern of rejecting an even number of councillors that is overriding the Legislation by unnecessarily limiting the number of councillors on a council.

Councillors	Count
5	6
6	1
7	30
8	Zero
9	30
10	2
11	10
12	Zero

The count of councils with an odd numbers of councillors is 76 while the even number count was 3. The 2019 Boroondara Representation Review, Final Report has recommended the number of councillors should be increased from 10 to 11 therefore the imbalance between odd and could become 77 to 2.

There is such a bias by the VEC against even numbers on councils that the legislation should restrict the number of councillors to an odd number. Given Victorian councils (e.g. City of Casey)

⁶⁶ **2005 Casey City Council Representative Review, Final Report:-**
<https://www.vec.vic.gov.au/resources/caseyFinalReport2005.pdf>

can have a higher population than some capital cities, Australian Territories or a significant fraction of an Australian State, the current upper limit on councillor numbers should be increased.

The VEC has had an excessively strong bias against an even number of Councillors on the assumption that tied votes are a problem for the VEC to address. Boroondara City Council with 10 Councillors for over 20 years has not experienced a problem. The [2019 Boroondara City Council Representation Review, Final Report](#)⁶⁷, stated:

In its submission, Boroondara City Council argued that there was no requirement to have a standardised state-wide approach to councillor numbers or for there to be an odd number of councillors, and that the VEC should consider the size of the local council area, particularly in relation to local councils covering a larger geographical area, when recommending the number of councillors. The Council also submitted that the community and all current councillors favoured retaining 10 councillors.

The State Government enacted legislation with a maximum of an even number of Councillors and this limit has failed in practice.

One option is for the legislation to require all councils to have an odd number of councillors unless the Mayor is directly elected in a poll separate to the councillor's ballot. Then there is no penalty for an even number of councillors less than the maximum permitted under the legislation. The current upper limit of 12 councillors is the issue that needs to be addressed.

Although it is not appropriate for the VEC to impose an artificial ceiling at 11 councillors, there is a requirement for more councillors in the City of Casey and probably in other Interface Councils. Therefore it is not appropriate to reduce the upper limit to 11 councillors to resolve what is the 'casting vote' issue being addressed by the VEC.

To address the casting vote issue there are options available to the Minister such as a Local Government Panel to adjust council boundaries, or by an Act of Parliament. In the past there have been difficulties between Councillors on Casey Council. If the Casey City became unworkable with 12 councillors then the problem would be a result of the failure of this 2019 review. The issues need to be addressed are:

1. Modifying the upper limit on the number of councillors for Interface Councils.
2. Resolving the 'casting vote' problem with an even numbered, upper limit.

Given the relatively recent experience with the Greater Geelong Council the State Government is unlikely to implement a directly elected Mayor. The Electoral Boundaries Commission (refer to the **Electors Per Councillor** section above) or a Local Government Panel may be the only options available for the City of Casey but both are outside the control of the Casey Council and the VEC.

The 2012 Casey City Representation Review Final Report included:

With the maximum number of councillors, the number of voters per councillor is reduced from 15,005 to 13,754 – still the second highest ratio in Victoria. The number of voters per ward is some 41,000 – close to the highest in the State.

If a potential 15,005 electors per councillor in 2012 was justification for a 12 councillor Casey City recommendation, or an additional councillor is required for Boroondara City at 13,335 electors per councillor then 19,385 electors per councillor for Casey City is unreasonable especially when compared to 9,432 for neighbouring Greater Dandenong City. Given the restricted terms of

67 **2019 Boroondara City Council Representation Review, Final Report:-**

https://www.vec.vic.gov.au/files/RepReviews/Final_Report_-_Boroondara_City_Council_-_Representation_Reviews_2019-20.pdf

reference the scheduled 2019 City of Casey Representation Review has no alternative but to model all recommended or alternate ward layouts with 12 councillors and highlight any issues to be addressed by the Minister. Previous VEC reports to the Minister have been ignored and no panels have been appointed. Note 19,385 electors per ward is based on 2018 estimates and not on the higher 2020 population estimate of 21,147 electors per councillor.

Using the Casey City estimated 232,621 electors for 2020 with the earlier dated **Number of Voters Per Councillor** data from the VEC's [2019 Local Council Representation Review - Submission Guide](#)⁶⁸, **Appendix 1: Electoral Structures Of All Victorian Councils, Metropolitan Melbourne Table:**

Casey Councillors	Electors per Councillor	Metropolitan Councils
11	21,147	
12	19,385	
13	17,894	
14	16,616	
15	15,508	
16	14,539	Banyule City
17	13,684	Darebin City Kingston City Knox City Melbourne City
18	12,923	Brimbank City
19	12,243	Boroondara City (12,123 – 2019) Frankston City Glen Eira City Moreland City Whitehorse City
20	11,631	Bayside City Monash City
21	11,077	
22	10,574	Moonee Valley City Port Phillip City Stonnington City
23	10,114	Hobson Bay City Manningham City Maroondah City
24	9,693	Greater Dandenong
25	9,305	Maribyrnong City Yarra City

⁶⁸ **Representation Review Submission Guide:-** <https://www.vec.vic.gov.au/files/RepReviews/Local Council Representation Review - Submission Guide - May 2019.pdf>

Casey Councillors	Electors per Councillor	Metropolitan Councils
304	765	West Wimmera Shire

The 2019 Boroondara City Representation Review, Final Report recommended 11 councillors for 133,357 Electors. Casey City would require 19 councillors to match Boroondara City, or 24 councillors to match Greater Dandenong City. Just to provide some contrast, in the same appendix the smallest Victorian council was West Wimmera Shire with 5 councillors and 764 voters per councillor.

With the original 10 councillor configuration Boroondara City would have had 13,336 electors per councillor. That ratio is equivalent to 17 councillors for Casey City. The current upper limit of 12 councillors in the Act and Local Government 2018 Bill is too low. An upper limit of an even number of councillors in the legislation is unworkable without direct election of a Mayor.

The 2014 Electoral Review documentation ([Chapter 6 - Electoral Representation](#)⁶⁹, **Table 18 Legislated Councillor Ranges In Other States And Territories** provides the limits of other jurisdictions. But does not compare neighbouring Councils statistics to show the extreme differences. It would require 24 Casey City councillors to be equivalent to the 11 Greater Dandenong councillors.

Other jurisdictions have an upper limit of 15 councillors and even this limit would be too low for **Interface Councils** in Victoria. A fairer system would be to have an upper limit on the number of **Electors per Councillor** and automatically adjust the number of Councillors and Ward boundaries at each Representation Review. An upper limit in the region of 12,000 to 14,000 electors would be appropriate. Therefore the recommendation is 14,000 **Electors per Councillor** with an increment of two councillors to maintain an odd number of councillors.

69 2014 Electoral Review, Chapter 6 - Electoral Representation:-
https://www.localgovernment.vic.gov.au/_data/assets/pdf_file/0026/48158/Electoral-Review-Part-3_of_3_FINAL.pdf

7. Recommendations

- 7.1 A Local Government Bill 2019 should alter the existing upper limit of 12 councillors and replace it with an odd number.
- 7.2 The councillor upper limit should be automatically revised at every VEC Representation Review.
 - (a) calculated from the estimated number of electors at the next election divided by an upper limit of 14,000 Electors Per Councillor.
 - (b) if the calculated result is an even number then the VEC has the option to increment by one the number of councillors i.e. appoint an odd number.
- 7.3 If the variable increase in councillor numbers is not acceptable then increase the upper limit to 17 Councillors.
- 7.4 if the previous recommendations are unacceptable then increase the upper limit to 15 Councillors.

Tied Votes

Currently in the event of conflict with a tied vote due to an even number of councillors, the Mayor has a casting vote. In this circumstance the Mayor's ward effectively gains an additional vote.

2005 Casey City Council Representation Review, Final Report⁷⁰, **8 Findings and Recommendation, 8.1 Number Of Councillors, Issues Considered By The VEC**, Page 10 included:

The VEC also noted its reluctance to recommend an even number of councillors for the Casey City Council. Even numbers of councillors can lead to tied votes, which may only be resolved by a mayoral casting vote. This situation effectively gives one councillor two votes and the right to make determinations on issues which are evenly divided. The VEC considered this possibility particularly concerning in Councils regularly faced with major policy and strategic planning decisions. The VEC understood this to be the case with the Casey City Council.

Taking into account the large population and the potential problems with even numbers of councillors, the VEC recommended the highest uneven number allowed by legislation (11 councillors) in all of its preliminary options for Casey.

⁷⁰ **2005 Casey City Council Representative Review, Final Report:-**
<https://www.vec.vic.gov.au/resources/caseyFinalReport2005.pdf>

8. Recommendation

8.1 To prevent tied votes only an odd-number of Councillors can be elected to a council

8.2 Alternatively, implement direct election of a Mayor and Deputy Mayor by the introduction of a separate ballot paper presented to all electors. Therefore by direct election of the Mayor and Deputy Mayor the issue of a ward receiving an advantage in a tied vote is avoided.

Election of Mayors And Deputy Mayor(s)

Election of a Mayor and Deputy Mayor(s) should be revisited in the 2019 review.

Direct Election

The Melbourne City legislation for a Mayoral election should not be pursued instead the Tasmanian model should be adopted. Refer to the TEC, [2018 Launceston City Election Report](#)⁷¹, **Local Government Elections In Tasmania, Electoral System** section for a very brief introduction.

Legislation could be passed after the 2020 General Elections with a transition arrangement of a postal vote election for a Mayor and Deputy Mayor to be held during the term of the next council. Alternatively, direct election could be introduced at the 2024 General Elections.

In the Tasmanian [Local Government \(Election of Mayors\) Order \(No. 2\) 1998](#)⁷², Schedule 1 only major councils have direct election of the Mayor. Smaller councils retain election by councillors.

71 TEC, **2018 Launceston City Election Report**:-

https://www.tec.tas.gov.au/Info/Publications/LocalGovernmentElectionReports/Current_Reports/Individual_Reports/2014_Launceston_City_Council_election_report.pdf

72 Tasmania, **Local Government (Election of Mayors) Order (No. 2) 1998**:-

<https://www.legislation.tas.gov.au/view/html/inforce/current/sr-1998-126>

Election By Councillors

The current Act and Regulations plus 2018 Bill do not provide any directions for the election procedure for Mayors or Deputy Mayors. As each council has enacted their own Local Laws there are significant differences that should be addressed in a new 2019 Bill.

For example the lapsed [Local Government Bill 2018](#)⁷³ stated:

Part 2 – Councils

Division 4 - Election of Mayor and Deputy Mayor

25 Election Of Mayor

(3) The election of the Mayor must—

*(a) be chaired by the Chief Executive Officer;
and*

(b) subject to this section, be conducted in accordance with the Governance Rules.

27 Election of Deputy Mayor

(1) Section 25, other than subsection (3)(a), applies to the election of a Deputy Mayor by the Councillors as if any reference in that section to the Mayor was a reference to the Deputy Mayor.

Some examples of Local Law clauses for nomination of candidates are:

(a) All nominations must have a mover and seconder.

(b) the Chief executive must invite nominations for the office of Mayor.

(c) The Chief Executive Officer must invite nominations for the office of Mayor and confirm acceptance of the nomination with the nominee.

Relying on each councils Local Law does not standardise the election process. In these examples one council would only accept a candidate if there was a mover and seconder while another would accept any councillor who put themselves forward for election.

Where the elections are via a show of hands it leaves councillors exposed to pressure to conform and not necessarily voting for the best candidates. Councillors who didn't vote for the Mayor could find themselves frozen out of Committee appointments or receiving less support.

Other jurisdictions handle this election process by a secret ballot for Mayor and that could be considered worlds best practice. Implementing secret ballots for Mayor is one of the most significant changes proposed in this submission.

⁷³ **Local Government Bill 2018:-**

http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/PubPDocs_Arch.nsf/5da7442d8f61e92bca256de50013d008/ca257cca00177a46ca2582950078a5e6!OpenDocument

Tasmanian Government, [Local Government \(General\) Regulations 2015](#)⁷⁴ provides the option of an election of some Mayor and Deputy Mayors by their councillors. Reference is:

Tasmanian, Local Government (General) Regulations 2015

Version current from 14 November 2018

Part 2 - Elections

Division 1 - Elections Of Mayor And Deputy Mayor By Councillors

4. Nominations for mayor and deputy mayor

- (1) Before the nominating period, the general manager is to issue to all councillors -
 - (a) a notice of an election for the office of mayor, or deputy mayor, or both; and
 - (b) a nomination form for that election.*
- (2) The general manager is not to release, until the end of the nominating period, the names or details of any councillor who has nominated.*
- (3) At the end of the nominating period, the general manager is to inform each councillor –
 - (a) of the nominations received; and
 - (b) whether a ballot is required.*
- (4) A ballot is required if there is more than one nomination for an office.*
- (5) If a ballot is not required, the general manager is to declare the nominee elected to the office of mayor or deputy mayor, as applicable, at the beginning of the first meeting.*
- (6) If a nomination is not received for the office of mayor or deputy mayor, the general manager is to invite nominations for the office at the first meeting.*
- (7) If a nomination is not received after the invitation –
 - (a) the council is to appoint a councillor to act in the vacant office; and
 - (b) the general manager is to advise the Director accordingly.*

5. Ballots

- (8) If there are 2 or more nominations for the office of mayor or deputy mayor, a ballot is to be conducted by the general manager in accordance with this Division.*
- (9) A candidate may appoint as a scrutineer a person, who is not a councillor, by written notification to the general manager of that appointment before the ballot commences.*
- (10) The councillors present at the meeting at which the ballot is to be conducted are to appoint a councillor, who is not a candidate, to preside at the meeting for the period of the ballot.*
- (11) Each councillor present at the meeting, whether a candidate or not, is to be given a ballot paper on which are printed in alphabetical order the names of all the candidates.*

6. Voting

- (12) Voting is to be carried out by secret ballot at a meeting of the council.*

⁷⁴ Tasmanian Government **Local Government (General) Regulations 2015**:-
<https://www.legislation.tas.gov.au/view/html/inforce/current/sr-2013-037>

- (13) *Each councillor is to vote for one candidate by striking through the names of the other candidates for whom the councillor does not intend to vote.*
- (14) *The councillor appointed to preside at the ballot may vote as a councillor.*
- (15) *If the names of more than 2 candidates appear on the ballot paper and no candidate receives a simple majority, the following procedure applies:*
 - (a) *the candidate who received the smallest number of votes is to be excluded as a candidate;*
 - (b) *new ballot papers, which have the names of the continuing candidates printed on them in alphabetical order, are to be prepared;*
 - (c) *one of those new ballot papers is to be given to each councillor present at the meeting, whether a candidate or not;*
 - (d) *voting is to take place in accordance with sub-regulation (2) .*
- (16) *The procedure specified in sub-regulation (4) is to be repeated until one candidate receives a simple majority.*

7. Counting of votes

- (17) *The counting of votes may be conducted in a room other than the council meeting room.*
- (18) *A scrutineer is entitled to be present at the count.*
- (19) *On any count with more than 2 continuing candidates, if 2 or more candidates receive an equal number of votes and that number is the smallest number for the purpose of regulation 6(4), the candidate to be excluded is the candidate whose name is first drawn on a drawing or casting of lots under regulation 20.*
- (20) *If there are only 2 continuing candidates in a count and each receives an equal number of votes, a new ballot is to be conducted.*
- (21) *If a ballot conducted under sub-regulation (4) results in an equal number of votes for each continuing candidate, the successful candidate is the candidate whose name is first drawn on a drawing or casting of lots under regulation 20 .*
- (22) *Except as provided in subregulation (5), the successful candidate is the candidate with a simple majority.*

8 Declaration of result of ballot

- (23) *The general manager is to declare the successful candidate elected to the office of mayor or deputy mayor, as appropriate.*
- (24) *The general manager is to ensure that the result of the ballot for each office is recorded in the minutes of the meeting.*

Due to workload some councils currently elect two Deputy Mayors e.g. City of Casey. The Local Government 2019 Bill needs to permit the election of one or two Deputy Mayors. Both Deputy Mayors would receive the same allowances.

Election of a second Deputy Mayor should be optional and made dependent of the estimated population of the council. For example a council with an estimated population of 150,000 should have the option to elect a second Deputy Mayor. There is no logic behind setting the trigger point for election to 150,000. It could be argued that 100,000, 125,000 or 200,000 people is the appropriate trigger point. What is important is enabling the election of a second Deputy Mayor.

9. Recommendations

- 9.1 Any councillor can put forward the name(s) of any councillor for election as Mayor or Deputy Mayor.
- 9.2 At the public meeting to elect the Mayor the CEO is to temporarily occupy the chair until the Mayor is elected or a councillor is appointed to chair the meeting after the failure to elect a Mayor and Deputy Mayor.
- 9.3 Any councillor can decline to be elected Mayor or Deputy Mayor.
- 9.4 The election of a Mayor or Deputy Mayor is always a secret ballot.
- 9.5 After the election of the Mayor a council must decide to elect one or two Deputy Mayors before their actual election(s).
- 9.6 A councillor can only occupy one office of Mayor or Deputy Mayor.

Transparency, Or The Lack Thereof ...

Public Question Time

The KnowYourCouncil website, Guide To Councils, Council Meetings, Attending Council Meetings states:

Some council local laws do allow for public question time during meetings. However, arrangements vary and enquires should be made separately to each council.

Victorian Ombudsman, [Investigation Into The Transparency Of Local Government Decision Making](#)⁷⁵, dated December 2016,

Public Participation At Council Meetings

133. *Public engagement in council decision making processes increases the level of scrutiny, transparency and public understanding around decisions. The public can participate in council decision making in a variety of ways. There are often formal public consultation processes which occur before significant council decisions and a range of informal communications take place between councillors and constituents day-to-day on particular issues.*

134. *While the Local Government Act does not contain any general requirements for public participation in council meetings⁷⁶ (other than that they be open to the public), council responses to the survey indicate that all councils have some kind of public participation in their council meetings. The investigation examined these processes and their impact on the transparency of decision making.*

The Ombudsman's report included **Table 2: Public Participation In Council Meetings**. Information from Table 2 has been extracted and forms the basis of the following tables.

At Ordinary Meetings	Ask Questions Make Comments Make Presentations Submit Documents Other
Boroondara	

At Ordinary Meetings	Ask Questions Other⁷⁷
Wodonga	

75 Victorian Ombudsman, **Investigation Into The Transparency Of Local Government Decision Making**:- <https://www.ombudsman.vic.gov.au/getattachment/195a77c8-ed15-4a1d-9967-404474e1b4a6//publications/parliamentary-reports/investigation-into-the-transparency-of-local-gover.aspx>

76 However, section 223 does provide the right for the public to make submissions on specified matters.

77 Notes: Where councils specifically referred to 'petitions'; 'joint letters'; 'statements'; 'addressing council on planning permits'; 'representations'; or 'submissions' in their free text responses as public participation processes in addition the specified categories, these have been categorised as 'other'.

At Ordinary Meetings	Ask Questions Make Comments Make Presentations Submit Documents
Ararat	
Banyule	
Baw Baw	
Bayside	
Brimbank	
Central Goldfields	
Hindmarsh	
Latrobe	
Mansfield	
Moreland	
Murrindindi	
Port Philip	
West Wimmera	
Yarra Ranges	

At Ordinary Meetings	Ask Questions Make Presentations Submit Documents
Ballarat	
Frankston	
Hepburn	
Kingston	
Melton	
Mornigton Peninsula	
Pyrenees	
South Grampians	
Strathbogie	
Swan Hill	
Towong	
Yarra City	

At Ordinary Meetings	Make Presentations Submit Documents
Golden Plains	
Moyne	

At Ordinary Meetings	Ask Questions Make Presentations Submit Documents
Wellington	

At Ordinary Meetings	Ask Questions Submit Documents
Greater Bendigo	
Greater Geelong	
Greater Shepparton	
Indigo	
Macedon Ranges	
Maribyrnong	
Moirā	
Surf Coast	

At Ordinary Meetings	Submit Documents
Melbourne	

At Ordinary Meetings	Ask Questions Make Comments Make Presentations
Corangamite	
East Gippsland	

At Ordinary Meetings	Ask Questions Make Presentations
Buloke	
Campaspe	
Hobsons Bay	
Mitchell	
Moorabool	

At Ordinary Meetings	Make Presentation
Loddon	

At Ordinary Meetings	Ask Questions Make Comments
Glenelg	
Hume	

The most restrictive councils only permit Questions to be asked and then a wide variety of further restrictions apply. For example, City of Casey where only 9 questions appear in the 2018 calendar year, ordinary meeting Minutes. This performance is not captured on the KnowYourCouncil web site, Governance section and there is no comparison with other councils. The only way to measure the Public Question Time performance of a council is to examine the Minutes of every ordinary council meeting.

As these tables demonstrate with so much dependent on Local laws the level of transparency and community engagement is not equal for all Victorians.

At Ordinary Meetings	Ask Questions
Alpine	
Bass Coast	
Benalla	
Cardinia	
Casey	
Colac Otway	
Darebin	
Gannawarra	
Glen Eira	
Horsham	
Knox	
Manningham	
Maroondah	
Mildura	
Monash	
Nillumbik	
Northern Grampians	
Queenscliffe	
South Gippsland	
Stonnington	
Wangaratta	
Warrnambool	
Whitehorse	
Wyndham	
Yarriambiack	

As can be seen from the simple tables above, some councils encourage engagement by their community in their meetings and others under their Local Laws limit engagement to an absolute minimum. Even within the most restrictive group there are wide variations in the restrictions placed on community engagement.

The following table highlights the excessive variation in the public's participation in ordinary meetings of councils that is permitted under the Act.

	Casey ⁷⁸	Greater Dandenong ⁷⁹	Banyule ⁸⁰	Glen Eira ^{82,83,84}
Minimum notice period	10am the first business day prior day before the next ordinary meeting.	15 minutes following commencement of the ordinary meeting.	12 noon on day of meeting.	To address council, submit prior to commencement of meeting or as soon as possible thereafter. To ask written question, submit 12 noon on business day preceding the day of the ordinary meeting.
Method to submit	Must be submitted electronically	In writing or online via web site	In writing or online via web site	In writing, email or website.
Limitation on attendance	Questioner must be in the public gallery.	Not Applicable	Not Applicable	Questioner must be in the public gallery.
Question Limit - Number	2 per meeting.	3 per meeting.	2 per meeting.	Ask 2 question in writing or 1 question if in attendance (refer to Local Law 2009, Clauses 230 and 232 for clarification). Within the 15 minutes period for questions, if time permits further questions may be asked.
Question Limit - Words	50 words	300 words	3 minutes to address council per item	150 words.
Clarification permitted	No	Yes	2 minutes per item in response to a councillor question.	Yes
Address Council on an Agenda matter	No	No	Meeting limits for each agenda item are: 3 speakers FOR 3 speakers AGAINST	Make 1 statement. If time permits further statements may be made.
Public Questions Submitted (2018 ⁸⁵)	9	87	78	30
Public Question Submitters (2018)	6	48	22	12

78 City of Casey, **Councils Meetings Policy, Version 1.2**:- <https://www.casey.vic.gov.au/policies-strategies/council-meetings-policy>

79 Greater Dandenong, **Local Law No. 1 Meeting Procedure**:- <http://www.greaterdandenong.com/document/2807/local-law-no-1-meeting-procedure>

80 Banyule, **Meeting Procedures Code 2015**:- https://www.banyule.vic.gov.au/files/assets/public/_operating-images-amp-docs/documents/meeting-procedures-code.pdf

81 Banyule, **Public Question Time Form, or Request to address Council on an item listed on the meeting Agenda**:- <https://www.banyule.vic.gov.au/About-us/Councillors-and-Council-meetings/Council-meetings/Speak-at-a-Council-meeting/Public-question-time-form>

82 Glen Eira, **Guidelines for Public Participation at Council Meetings**:- <https://www.gleneira.vic.gov.au/media/3491/guidelines-for-public-participation-at-council-meetings.pdf>

83 Glen Eira, **Local Law 2009**:- <https://www.gleneira.vic.gov.au/media/3769/local-law-2009-august-2016.pdf>

84 Glen Eira, **Written Public Questions To Council**:- https://www.gleneira.vic.gov.au/media/4251/written_public_questions_to_council.pdf

85 Calendar year 2018

One measure of transparency is the level of public participation in ordinary meetings of a council and the restrictions or limitations placed on Public Question Time. For example Casey City limits questions to 50 written words while Banyule could allocate 3 minutes for a person to address the council on any agenda item. Minimum conditions or requirements for Public Question Time are absent from the Act and Regulations. Without any legislative controls or guidance it is not surprising that there is such an unacceptable difference in transparency and public engagement experienced by Victorians.

The Casey Local Law is so restrictive that a council with the highest population of this set had the least public engagement in council meetings. The 2018 Public Question Time minutes for Greater Dandenong with 103,754 electors showed it received 87 questions from 48 people, while Casey with 212,291 electors received 9 questions from 6 people. Relying on Local Laws to provide public engagement in council meetings and transparency is failing Victorians. The only solution is to introduce a minimum set of public engagement conditions in the Act and Regulations

There is no justification for such a wide variation in Public Question Time and public participation in council meetings. The current reform proposal fails to deliver transparent local government for all Victorians. On the simple matter of community engagement in council meetings the Ombudsman's reports provides one example of another jurisdiction's legislation.

Public Question Time

454. *In contrast to Victoria's Local Government Act, the Western Australia **Local Government Act 1995** (WA) provides for question time in council meetings. It states:*

5.24. *Question time for public*

- (1) *Time is to be allocated for questions to be raised by members of the public and responded to at –*
 - (a) *every ordinary meeting of a council; and*
 - (b) *such other meetings of councils or committees as may be prescribed.*
- (2) *Procedures and the minimum time to be allocated for the asking of and responding to questions raised by members of the public at council or committee meetings are to be in accordance with regulations.*

The West Australian, Local Government Act refers to the [Local Government \(Administration\) Regulations 1996](#)⁸⁶, Version 03-g0-01, Dated 15 December 2018 for the engagement of the public at ordinary, special and committee meetings of a council.

Western Australian, Local Government (Administration) Regulations 1996

Part 2 - Council And Committee Meetings

5. Question time for public, meetings that require prescribed (Act s. 5.24)

For the purposes of section 5.24(1)(b), the meetings at which time is to be allocated for questions to be raised by members of the public and responded to are —

- (1) *every special meeting of a council;*
- (2) *every meeting of a committee to which the local government has delegated a power or duty.*

86 Western Australia, **Local Government (Administration) Regulations 1996**:-
https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_s4572.html

6. Question time for public, minimum time for (Act s. 5.24(2))

- (1) The minimum time to be allocated for the asking of and responding to questions raised by members of the public at ordinary meetings of councils and meetings referred to in regulation 5 is 15 minutes.*
- (2) Once all the questions raised by members of the public have been asked and responded to at a meeting referred to in subregulation (1), nothing in these regulations prevents the unused part of the minimum question time period from being used for other matters.*

7. Question time for public, procedure for (Act s. 5.24(2))

- (3) Procedures for the asking of and responding to questions raised by members of the public at a meeting referred to in regulation 6(1) are to be determined —*
 - (a) by the person presiding at the meeting; or*
 - (b) in the case where the majority of members of the council or committee present at the meeting disagree with the person presiding, by the majority of those members,*
having regard to the requirements of subregulations (2), (3) and (5).
- (4) The time allocated to the asking of and responding to questions raised by members of the public at a meeting referred to in regulation 6(1) is to precede the discussion of any matter that requires a decision to be made by the council or the committee, as the case may be.*
- (5) Each member of the public who wishes to ask a question at a meeting referred to in regulation 6(1) is to be given an equal and fair opportunity to ask the question and receive a response.*
- (6) Nothing in subregulation (3) requires —*
 - (a) a council to answer a question that does not relate to a matter affecting the local government; or*
 - (b) a council at a special meeting to answer a question that does not relate to the purpose of the meeting; or*
 - (c) a committee to answer a question that does not relate to a function of the committee.*
- (7) If, during the time allocated for questions to be raised by members of the public and responded to, a question relating to a matter in which a relevant person has an interest, as referred to in section 5.60, is directed to the relevant person, the relevant person is to —*
 - (a) declare that he or she has an interest in the matter; and*
 - (b) allow another person to respond to the question.*

Contrast the level of public engagement afforded by the West Australian legislation with Public Question Time at a Victorian council's Local Law for ordinary, special and committee meetings. The current Victorian legislation offers no similar facility or protection of public access to meetings. The Victorian example used is Casey City which does have a very restrictive set of conditions under Local Law.

	Western Australia	<u>Casey City</u> ⁸⁷
Committee Meetings	Public can ask questions	Advisory Committee Meetings are not open to the public.
Special Meetings	Public can ask questions	No public question time
Ordinary Meetings	No limit on the number of questions that can be asked during the 15 minutes of Question Time.	2 question limit, 50 words maximum, submitted 10am day prior, submitter to be silent and not take part during the course of the meeting.

Setting 15 minutes aside in an Agenda for Public Question Time is not an excessive burden and has been adopted by other jurisdictions other than Western Australia, e.g. Tasmania.

The Tasmanian, **Local Government (Meeting Procedures) Regulations 2015**⁸⁸ ensures Question Time is available to all electors.

Tasmanian, Local Government (Meeting Procedures) Regulations

Part 2 - Meetings

Division 4 - Questions

31 Public Question Time

- (2) *The chairperson of an ordinary council meeting may –*
- (a) *address questions on notice submitted by members of the public; and*
 - (b) *invite any member of the public present at the meeting to ask questions relating to the activities of the council.*
- (7) *A council is to determine any other procedures to be followed in respect of public question time at an ordinary council meeting.*

The **KnowYourCouncil**⁸⁹ website includes a **comparison section**⁹⁰ which includes Governance that is described as:

Provision of good governance to the community including making and implementing decisions with reference to community engagement, policy frameworks and agreed practice

Neither Public Question Time performance nor Public Participation is measured or reported. Given the lack of legislation the opportunities for public engagement in council meetings can be unreasonably restricted by Local Law and it would be appropriate for community engagement to be reported for comparison purposes.

87 City of Casey, **Local Law No.1 (2016) - Meeting Procedures and the Use of the Common Seal**, including **Schedule 2 - Rights and Responsibilities of the General Public**:- https://www.casey.vic.gov.au/sites/default/files-public/2018-11/ECM_11513281_v3_Local Law No 1 2016 Meeting Procedures and Use of the Common Seal - Governance - 19-07-2016.pdf

88 Tasmanian, **Local Government (Meeting Procedures) Regulations 2015**:- <https://www.legislation.tas.gov.au/view/html/inforce/current/sr-2015-038>

89 KnowYourCouncil Home Page:- <https://knowyourcouncil.vic.gov.au/home>

90 KnowYourCouncil website, Compare Councils, Service Area, Governance:- <https://knowyourcouncil.vic.gov.au/compare-councils>

Public Participation In Council Meetings

Public Question Time is not the only option to enable public engagement in council meetings. Glen Eira allows people to participate in ordinary council meetings. The 6th February 2018 Council Meeting Minutes, Page 5 includes:

Public Participation

The Mayor advised that at this stage of the meeting, members of the community were invited to participate in the meeting under clause 230(1) Public Participation of the Glen Eira Local Law.

Unfortunately the Glen Eira meeting Minutes do not record any further details of the public participation in this council meeting.

The City of Banyule Council also encourages public participation in their ordinary council meetings. Their ordinary meeting Minutes note for each item on the Agenda which members of the public addressed the council. Examination of three meetings Minutes highlights the level of public engagement which is in addition to Public Question Time.

Meeting	Items	Times People Spoke
29/1/2018	8	18
19/2/2018	7	9
19/3/2018	8	19
Totals	23	46

The Local Government Act 1989 requires council meetings to be open to the public. It does not, however, prescribe a process for public participation in the meetings, this is left to individual councils to determine.

Banyule's public participation processes have been in operation for many years, and have evolved over time. The most recent review occurred on 5 June 2017 when Council resolved to move its Open Forum from prior to the start of meetings, to prior to the closure of the meetings.

A review of public participation by Banyule provides a model for improved transparency and superior public participation. in meetings. This model of public participation must be included in the deliberations of the 2019 Local Government Act Review and appropriate clauses incorporated into the Act and Regulations.

An internal review by Officers of the City of Banyule included the following extracts in the Agenda and Minutes of the Council Meeting of 19th March 2018:

[Agenda Ordinary Meeting Of Council 19 March 2018](#)⁹¹

7.2 PUBLIC PARTICIPATION IN COUNCIL MEETINGS REVIEW

...

LEGAL CONSIDERATION

There are no direct legal implications arising from the recommendation contained in this report.

91 City of Banyule, Agenda Ordinary Meeting Of Council 19 March 2018:-

<https://www.banyule.vic.gov.au/files/assets/public/about/meetings/2018/agendas/ordinary-agenda-19-march-2018.pdf>

The Act requires that Council Meetings must be open to the public. However, there are no legislated requirements relating to public participation at Council Meetings.

Councils are required to establish and adopt their own conduct rules for Meetings which are set out in Meeting Procedure Local Laws.

The conduct of Council's Meetings is governed by Banyule's Governance Local Law (2) 2015, which incorporates the Meeting Procedures Code. The Code does not specify provisions relating to the public participation processes, these are based on Council practice and policy and have evolved and changed based on the needs and will of the Council during various Council terms.

...

Request to Speak

A person may elect to speak on a maximum of 3 items appearing on the Council Agenda for a particular meeting. Council allows 3 speakers 'For' the matter and 3 'Against', so that a maximum of 6 speakers on any item may be heard. Additional speakers may be allowed on a particular item at the discretion of the Chairperson. Speakers are given 3 minutes each to speak. The speakers are heard prior to the matter being considered and debated by the Councillors.

Speakers lodge their request to speak via a form which must be submitted by 2.00pm on the day of the Council Meeting.

A typical Banyule Council Meeting would hear from between 12-18 speakers, which includes a number of persons speaking on up to 3 items each.

...

Practices At Other Councils

Bench marking with surrounding and other similar sized councils, indicates that Banyule is one of the only councils (only one other council was found) that provides members of the public two opportunities to address Council in its Ordinary Meeting, Also, of the benchmarked councils:

- *All require submissions of questions prior to the meeting.*
- *No other council allows speakers to address Council prior to an item on the Agenda (other than for statutory purposes of hearing submissions (s223), and these are usually heard at Special Committees).*

...

CONCLUSION

Public participation in Council Meetings increases the level of scrutiny, transparency and understanding regarding Council decision making. It also allows for those directly affected by a proposed Council decision, the opportunity to have their say and inform Council about how the decision may impact them.

While the Local Government Act does not contain any general requirements for public participation in council meetings (other than that they be open to the public), Banyule Council has always incorporated public participation as part of its meetings, through the Request to Speak process and the Open Public Forum.

Encouraging greater participation in Council decision making is laudable, however needs to be balanced against the efficient and effective governance of the meetings. The latest

review of Banyule's public participation process has been undertaken with this objective in mind

City of Banyule, [Minutes Ordinary Meeting Of Council 19 March 2018](#)⁹²:

7.2 PUBLIC PARTICIPATION IN COUNCIL MEETINGS REVIEW

Mr Roger Fyfe, Ms Beverley Moss, Mr Brian Grace and Mr Kevin Biaggini spoke to the item.

EXECUTIVE SUMMARY

Council actively encourages community participation and provides opportunities during Council meetings for questions and comments from members of the public. This includes the Request to Speak process and the Open Forum.

The Local Government Act 1989 requires council meetings to be open to the public. It does not, however, prescribe a process for public participation in the meetings, this is left to individual councils to determine.

Banyule's public participation processes have been in operation for many years, and have evolved over time. The most recent review occurred on 5 June 2017 when Council resolved to move its Open Forum from prior to the start of meetings, to prior to the closure of the meetings. Cr Mark Di Pasquale, who as Mayor has responsibility for chairing Council's meetings, has sought further review of the current practices related to public participation, with a view to extending the opportunity to ask questions from persons not able to attend Council meetings, and to ensure a more efficient and fair process for the Open Forum.

Benchmarking with other councils indicates that most other councils require questions to be put in writing, in advance, so as to allow for considered responses to be provided at council meetings. This practice also allows for the questions and responses to be minuted and made accessible to all.

This report explores the proposal to change the Public Open Forum to Public Question Time, and reviews other opportunities to make Council's meetings more accessible and efficient.

Resolution (CO2018/47)

That:

- 1. Council notes the review, and acknowledges its commitment to effective public participation at Council Meetings.*
- 2. Council endorses replacing the Open Public Forum with Public Question Time and to be based on the Guidelines attached subject to the deletion of the time limit in point 8; and*
- 3. Council confirms its support for the continuation of the Request to Speak process, subject to the number of items being limited to two per meeting, per person.*
- 4. The changes be trialled for a 6 month period where a report will be presented back to Council*

⁹² City of Banyule, Minutes Ordinary Meeting Of Council 19 March 2018:-

https://www.banyule.vic.gov.au/files/assets/public/about/meetings/2018/minutes/ordinary-minutes-19-march-2018_3.pdf

Correcting The Public Record

When a member of the public asks for information in Public Question Time the answer should be recorded in the Minutes. If there is an error contained within an answer from council officers in Public Question Time that has not been corrected there needs to be an external person or body for an informal review. The following illustrates the difficulty in attempting to correct the public record.

There are statements related to the Narre Warren North Power Station in the City of Casey, Ordinary Meeting Minutes by Council Officers that appear to contain errors. The public record should be reviewed and if appropriate correction(s) reported and recorded. The statements were:

- 1. The pipeline from Taylors Road is not lined to cells containing prescribed waste at Lyndhurst.*
- 2. It is confirmed that currently the gas for the power station from Lyndhurst and Narre Warren landfills is from putrescible waste and not prescribed waste.*

Public records show landfill gas extracted from Taylors Road is sourced from cells containing up to 49% Prescribed Industrial Waste (PIW). There were various attempts to have the public record corrected and they failed.

Casey Council has not requested nor required a Section 53V Environmental Audit for subdivisions or its own developments in the vicinity of the Narre Warren North Power Station. This may be due to the above errors in the public record. If Casey Council has not followed EPA guidelines and this is a hazardous situation then there is a chance it could jeopardise the health of residents. Alternatively, this site may pose no threat to human health. A Section 53V Environmental Audit answers that question.

The Narre Warren Power Station is located on the site of the closed Berwick Municipal Tip, Quarry Road, Narre Warren and the documentation for the power station EPA Licence 74296, EDL LFG (Vic) Pty Ltd, Page 19, Premises Reference Number 68956 Locality Plan provides a diagram showing the immediate vicinity to the west and south of the power station.

City of Casey, [Council Meeting Minutes Tuesday 6 September 2011](#)⁹³, Section 7 Public Question Time, Page 6 (Minute Book Page Number 371), Question 2

ii Taylors Road Landfill, Lyndhurst

The Department of Health is undertaking a health assessment of Dandenong/Lyndhurst residents living in the vicinity of the Lyndhurst landfill site to determine whether cancers, birth abnormalities or problems with pregnancy are more common. The landfill gas from mixed Prescribed Industrial Waste and Municipal Waste cells is extracted from the Taylors Road Landfill then burnt in the power station near residents in Narre Warren North. Therefore it is the Narre Warren North residents that have the highest exposure to the Taylors Road Lyndhurst's landfill gas combustion by-products.

How many residents are located within a 500m safety buffer distance that could be taken as current siting best practice (EPA publication 788.1) for the Taylors Road Landfill's gas

93 City of Casey, Council Meeting Minutes Tuesday 6 September 2011:-
[https://www.casey.vic.gov.au/sites/default/files-public/user-files/City %26 Council/Councillors and meetings/Past meetings and agendas/2011/06-09-2011 - OCM - Minutes.pdf](https://www.casey.vic.gov.au/sites/default/files-public/user-files/City%26Council/Councillorsandmeetings/Pastmeetingsandagendas/2011/06-09-2011-OCM-Minutes.pdf)

exhaust stacks located in Narre Warren North, and did the City of Casey specifically request these Narre Warren North residents be included in the health assessment.

The question was answered by the Manager Waste Management.

Approximately 250 houses are within 500 metres of the power station. The 500 metre buffer in the EPA guidelines was introduced after the construction of the power station.

The City of Casey did not specifically request these residents. The health study was specifically targeted at the area surrounding the Dandenong South Special Industry Zone and the Taylors Road Landfill. There have been no concerns raised by EPA or any other authority with respect to the operation of the power station at the closed Narre Warren Landfill.

Casey Council as the responsible authority for planning purposes has the responsibility to ask for and access the environmental audits for developments within an EPA buffer.

The original landfill and power station Works Authorities/Licences issued by the EPA would predate the encroachment of houses and the addition of Prescribed Industrial Waste into the Taylors Road Landfill. Therefore Casey Council through the planning processes, health studies and Section 53V Environmental Audits has to raise any concerns to the EPA. Over the years the EPA has relaxed the level of environmental monitoring for the power station by reducing the number of exhaust products required to be annually reported for this site. The results reported in the power station's annual reports have always been within the limits set by the EPA permit.

EPA, Gas Management Works Undertaken By Landfill Operators, [Appendix 5](#)⁹⁴, 2. Landfills with Methane Detected of Landfill Origin, 2.1 Landfill Address: 890 Taylors Road, Lyndhurst, Page 2.

Following the closure of the Tullamarine landfill in 2008, Taylors Road landfill became the only remaining landfill in Victoria licensed to receive Category B prescribed industrial (hazardous) waste. This prescribed waste is treated before being received onsite, to reduce the likelihood of adverse environmental impacts, and is unlikely to generate significant quantities of methane.

The landfill licence for this landfill requires that no more than 35 per cent of the waste in the landfill is prescribed waste. Hence, municipal biodegradable waste is the dominant waste type contained within the landfill cells. This landfill has received large volumes of organic waste since the 1990's, which means the landfill produces significant volumes of methane. Current cells are designed above best practice standards, with double liners, an extensive groundwater and gas monitoring network and a gas extraction system in filled cells. However, the older cells at the landfill that contain the most biodegradable waste were designed to standards that predate EPA's best practice guidelines. These cells have been closed and a gas extraction system collects the gas generated from organic waste and uses it to generate electricity.

Current practice is to isolate new Prescribed Industrial Waste (PIW) material into cells 12A, 12B and 12C. This is separate from the old cells that contain PIW mixed with General Waste (GW) e.g. Municipal Solid Waste (MSW). The old cells with the mixed PIW and GW are connected to the gas

94 EPA, Gas Management Works Undertaken By Landfill Operators, Appendix 5:-
https://www.epa.vic.gov.au/~media/Publications/Appendix_5_Site_specific_work.pdf

extraction system that feeds the Narre Warren North power station. It is only these old landfill cells that may pose a risk.

On the EPA [Hazardous Waste Management In Victoria](#)⁹⁵ web page in the **Environment Protection (Industrial Waste Resource) Regulations 2009** section, the **EPA Publication 1275** is referred to as the Regulatory Impact Statement.

EPA [Publication 1275](#)⁹⁶, Regulatory Impact Statement, Draft Environment Protection (Industrial Waste Resource) Regulations, **1.2 What is prescribed industrial waste?**, Page 10

Prescribed industrial wastes are a particular class of industrial waste. They are defined in the Regulations. They are generated from commercial or industrial sources and are highly odorous or potentially hazardous to humans, or the environment. Car repair workshops, dry-cleaning services, fast-food chain stores, food processing plants, chemical paint and plastics manufacturing, dental surgeries and hospitals generate types of prescribed industrial waste.

EPA Publication 1275, Regulatory Impact Statement, Draft Environment Protection (Industrial Waste Resource) Regulations, **1.3 The current Regulations**, Page 11

Category B is high-hazard waste. It can be disposed of to a Category B licensed landfill (there is only one such licensed site in Victoria, at Lyndhurst), or it may be treated to further reduce its hazard and allow disposal to a Category C licensed landfill. Examples of this waste are residual waste from a waste treatment facility, paint residues from car manufacturing or lacquers or glue waters.

At creation City of Casey became the responsible authority for the Taylors Road, Dandenong South landfill (inherited from the Shire of Cranbourne at the amalgamation with Berwick). Subsequently the City of Casey signed contracts to establish a gas pipeline from Taylors Road Landfill to Narre Warren North so that landfill gas from Taylors Road Landfill could be pumped to the Narre Warren North site. A power station had been established at the Narre Warren North landfill to burn landfill gas.

Previously on the City of Casey web site there was an **Environmental Education Kit, Resource Recovery and Waste Minimization 2004**, that included **Resource Recovery, Narre Warren Landfill**, Page 18.

Often valuable resources can be recovered from waste. An example of resource recovery in Casey is the landfill gas power plant at the closed landfill in Narre Warren. This is resource recovery because it recovers methane from rotting garbage to generate electricity for the community.

The Narre Warren Landfill was formerly known as the Berwick Regional Landfill. The Landfill is located at the end of Quarry Road in Narre Warren, accessible via Ernst Wanke Road. The site is located on a prominent ridgeline and provides uninterrupted views to the west over the City of Casey towards the Central Business District of Melbourne, with glimpses of Port Phillip Bay, and to the south, Western Port Bay and the Strzelecki Ranges.

95 EPA, Hazardous Waste Management In Victoria:- <https://www.epa.vic.gov.au/your-environment/waste/hazardous-waste-management-in-victoria>

96 EPA, Regulatory Impact Statement:- <https://www.epa.vic.gov.au/~media/Publications/1275.pdf>

Melway Reference 108 J12.

The Narre Warren Landfill was previously a basalt quarry and was opened as a Landfill in October, 1982. The characteristics of the former quarry made the site an ideal location for a landfill. The landfill closed in January 1996 and during the operating 13 years, 1.5 million tonnes of waste was deposited.

Methane is produced by the anaerobic (without oxygen) decomposition of garbage within the landfill. The decomposition produces landfill gas, which is a mixture of methane and carbon dioxide. Typically the landfill gas comprises of 55% methane and 45% carbon dioxide, with minor concentrations of CFC's (chlorofluorocarbons), oxygen and hydrogen.

If not controlled, landfill gas migrates to the atmosphere. This has a number of adverse effects, including odour emissions, reduction in greenhouse gases, inhibition of site revegetation and safety hazards. Also methane from landfill gas is utilized for electricity production and replaces other fuels such as coal, thus transforming an environmental problem into a useful energy source.

A power station was developed and built by Energy Developments LTD (EDL), and it comprises a gas extraction system, gas processing plant and power plant. The power plant comprises Caterpillar 3516 SITA spark ignition reciprocating engine generator sets operating on landfill gas fuel. These are 7 x 1000 kW units.

It is appropriate to review the City of Casey's responses to some Public Questions related to Prescribed Industrial Waste and the power station.

City of Casey, [Council Meeting Minutes 4 June 2013](#)⁹⁷, Section 7 Public Question Time, Page 10 (Minute Book Page Number 185), Question 5

Environment Education Document

The City of Casey publishes an Environmental Education document. As these documents are the only sources of information the City of Casey publishes on the operation of the Narre Warren Power Station site and given the errors and omissions would the Council consider referring the documents to the Conservation Committee for updating with current information?

The question was answered by the Manager Waste and Recycling

The Environmental Education Kit was produced for schools and was last updated in 2004. The kit will be updated or replaced as resources become available to do so. The Conservation Advisory Committee has an advisory role to Council. It provides strategic advice to the City of Casey on conservation, sustainability and heritage matters of relevance to the municipality. It is not the committee's role to update or review Council documents. The information on Narre Warren Landfill is dated but it is correct with the exception that now only 5 generators operate rather than 7 and that only one company now uses the waste heat from the power station. The landfill section in the kit was not intended to be a comprehensive environmental reporting tool for the site. The site operator, EDL, reports on

⁹⁷ Council Meeting Minutes Tuesday 4 June 2013:- [https://www.casey.vic.gov.au/sites/default/files-public/user-files/City %26 Council/Councillors and meetings/Past meetings and agendas/2013/04-06-2013 - OCM - Minutes.pdf](https://www.casey.vic.gov.au/sites/default/files-public/user-files/City%26Council/Councillors%20and%20meetings/Past%20meetings%20and%20agendas/2013/04-06-2013-OCM-Minutes.pdf)

emissions directly to the Environmental Protection Authority. The pipeline from Taylors Road is not lined to cells containing prescribed waste at Lyndhurst.

Of particular interest was the final sentence:

The pipeline from Taylors Road is not lined to cells containing prescribed waste at Lyndhurst.

The latest audit that includes landfill gas at Taylors Road landfill is the EPA online Audit Report Database entries for the Taylors Road Landfill, Transaction Number 8005841, Charms No. 62310-6, Report Appendices(part b). This audit includes:

Appendix B - Landfill Capping And Cell Lining Status

Cell No.	Date Cell Closed	Landfill Gas Station(s)	Waste Type GW (%)	Waste Type PIW (%)	Cell Volume (m³)
1	1992	1A & 1B	94%	6%	432,000
2	1995	1C	76%	24%	652,000
3A	1996	1D	100%		64,500
3B	1996	1E & 1F	100%		64,500
4	1998	1G & 1H	71%	29%	319,000
5	1998	1J & 1K	64%	36%	470,000
6	1999	1L	60%	40%	144,000
7	2000	1M	56%	44%	251,000
8A	2006	2B	87%	13%	164,000
8B	2006	2B	100%		153,000
9	2000	1N & 1P	63%	37%	179,000
10	2001	1R & 1Q	51%	49%	272,000
11	2003	1T & 1S	68%	32%	372,000
12A	2008	Not Applicable		100%	192,000
12B	2010	Not Applicable		100%	185,900
12C	-	Not Applicable		100%	547,000
14	2003	1U	73%	27%	318,000
15	2000	2B	61%	39%	359,000
16	2005	1X & 1W	73%	27%	231,000
16C	2006	2C	100%		93,000
17	2001	1X & 1Y	66%	34%	351,000
18	2008	2C	100%		399,050
19	-	Nil	100%		124,993
20	-	Nil	100%		635,000
21	-	Nil	TBA	TBA	258,000

All capped cells except for 12A and 12B are connected via the gas extraction system to the pipeline. Most connected cells can contain various amounts of Prescribed Industrial Waste (PIW) i.e. 15 Cells are connected to the gas extraction systems and 12 of those cells contain PIW. There can be no confusion. The statements by Council Officers appear to contain a significant error and the public record needs to be corrected.

This is confirmed by the EPA **Gas Management Works Undertaken By Landfill Operators** publication (extract above) and the online EPA [Amalgamated Licence](#)⁹⁸ database entry:

Suez Recycling & Recovery Pty. Ltd.

*Licence: 74643*⁹⁹-

Premises Ref No: 70542 - Conditions

Premises Address: 890 Taylors Rd, Dandenong South VIC 3175

LI_WA1.5.1 You must ensure that the total prescribed industrial waste deposited at the premises does not exceed 35% by weight of the total waste deposited over the lifetime of the premises.

These records confirm up to 35% Prescribed Industrial Waste is permitted in the landfill at Taylors Road. Audit records show individual cells that feed landfill gas to the Narre Warren North power station can contain up to 49% PIW.

Given what appeared to be an obvious error in the Public Question Time answer the issue was raised in the City of Casey's Conservation Committee meetings and recorded in the committee minutes that are then reported to ordinary council meetings. City of Casey, [Council Meeting Agenda 2 July 2013](#)¹⁰⁰, Planning for Casey's Community Section, Item 1, Attachment 1, City of Casey **Conservation Advisory Committee**, Agenda for Meeting 3 April 2013. Page 4, Section 9 Other Business

Narre Warren power station landfill gas

Tony highlighted his concerns with the response to a public question at the 4 June Council meeting about the nature of the landfill gas in the 15 kilometre pipeline that runs from the Taylor's Road landfill in Lyndhurst to the old landfill site in Narre Warren, where it is burnt to generate power.

Tony informed the Committee that the landfill gas does contain hazardous waste with putrescible waste in the Lyndhurst landfill cells. Tony noted concerns with the gases that are burnt and released into the atmosphere.

98 EPA, Online Amalgamated Licence Database:- https://portal.epa.vic.gov.au/irj/portal/anonymouse?NavigationTarget=ROLES://portal_content/epa_content/epa_roles/epa.vic.gov.au.anonrole/epa.vic.gov.au.searchanon&trans_type=ZALL

99 EPA, Amalgamated Licence 74643:-https://crm.epa.vic.gov.au/contentserver/contentserver.dll?get&pVersion=0046&contRep=CRMORDER&docId=005056A039DC1ED8999FAC413FCC029A&compId=AmalgamatedLicence74643_Statutory.PDF&accessMode=r&authId=CN=ECP&expiration=99991231235959&secKey=MIH4BgkqhkiG9w0BBwKggeowgecCAQExCzAJBgUrDgMCGGUAMAsGCSqGSIb3DQEHAATGBxzCBxAIBATAZMA4xDDAKBgNVBAMTA0VUDUAIHIBIEMA AWVDAJBgUrDgMCGGUAAoF0wGAYJKoZIhvcNAQkDMQsGCSqGSIb3DQEHATAcBgkqhkiG9w0BCQUxDxcNMTkwNjMwMTQwNjA3WjAjBgkqhkiG9w0BCQQxFgQUbtkTA3PobDY/E52qfAJQJzVHizcwCQYHKoZlZjgEAwQvMC0CFQCNEkdIyA8b0+42I3S8f6IWdZADagIUy8k9GnV3mWh8PjRH/HKTmDGFVXg=

100 City of Casey, Council Meeting Agenda 2 July 2013:- <https://www.casey.vic.gov.au/sites/default/files-public/user-files/City%26Council/Councillorsandmeetings/Pastmeetingsandagendas/2013/16-07-2013-OCM-Agenda.pdf>

Action: Council officers to follow up with Council's waste department and request information from relevant authorities that manage air quality and landfill on the matter.

Given the incorrect information on the public record there was also an attempt to have a correction provided by a follow up Public Question. City of Casey, [Council Meeting Minutes 2 July 2013](#)¹⁰¹, Section 7 Public Question Time, Page 8 (Minute Book Page Number 225), Question 1

Taylor's Road, Lyndhurst Landfill

In the minutes of the Council Meeting 14/6/2013 in answer to Public Question 5 the Manager Waste and recycling stated "The pipeline from Taylor's Road is not lined to cells containing prescribed waste at Lyndhurst" while the minutes of the Conservation Advisory Committee Meeting (File 71-35) included in this Council Meeting Agenda (2/7/2013) states "Tony informed the committee that the landfill gas does contain hazardous waste in the Lyndhurst landfill cells. Tony noted concerns with the gases that are burnt and released into the atmosphere". Council officers were to follow up and request information from the relevant authorities.

What has the Council learnt about the mix of Prescribed Industrial Waste and Municipal Solid Waste in the cells at Taylor's Road Landfill, and the piping of this landfill gas to the Narre Warren North Power Station?

The question was answered by the Acting Director Infrastructure Services.

Council officers have had discussions with EDL who are the operators of the power station at Narre Warren landfill. It is confirmed that currently the gas for the power station from Lyndhurst and Narre Warren landfills is from putrescible waste and not prescribed waste. Results of the April 2013 emission's test confirmed the power station met the relevant EPA regulatory requirements.

The relevant sentence is:

It is confirmed that currently the gas for the power station from Lyndhurst and Narre Warren landfills is from putrescible waste and not prescribed waste.

As can be seen from the EPA online database of audit records, landfill gas is sourced from cells containing Prescribed Industrial Waste (PIW) mixed with General Waste (e.g. MSW) and is the landfill gas for the power station.

City of Casey, [Council Meeting Agenda 3 September 2013](#)¹⁰², Planning for Casey's Community Section, Item 2, Attachment 1, City of Casey **Conservation Advisory Committee**, Minutes for Meeting 7 August 2013. Page 36, Section 10 Other Business

Narre Warren power station landfill gas - Tony O'Hara

The Committee discussed landfill gas associated with the Narre Warren site. Tony noted a response had been given to Council officers by authorities including the EPA and private operators involved in managing the landfill gas. Tony questioned if the information received is accurate and noted concerns with the landfill gas released into the atmosphere.

101City of Casey, Council Meeting Minutes 2 July 2013:- [https://www.casey.vic.gov.au/sites/default/files-public/user-files/City %26 Council/Councillors and meetings/Past meetings and agendas/2013/02-07-2013 - OCM - Minutes.pdf](https://www.casey.vic.gov.au/sites/default/files-public/user-files/City%26%20Council/Councillors%20and%20meetings/Past%20meetings%20and%20agendas/2013/02-07-2013%20-%20OCM%20-%20Minutes.pdf)

102City of Casey, Council Meeting Agenda 3 September 2013:- <https://www.casey.vic.gov.au/sites/default/files-public/user-files/City%20%26%20Council/Councillors%20and%20meetings/Past%20meetings%20and%20agendas/2013/03-09-2013%20-%20OCM%20-%20Agenda.pdf>

The public record concerning the source material of landfill gas for the Narre Warren Power Station is not corrected and the accuracy of information presented by Council Officers is questioned.

The relevant clauses are:

Victorian, Environment Protection Act 1970

Part IXD - Environmental Audits

53V Environmental audit report on risk caused by industrial process etc.

An environmental audit report in relation to the risk of any possible harm or detriment to a segment of the environment caused by any industrial process or activity, waste, substance or noise must—

- (a) specify the industrial process or activity, waste, substance or noise in respect of which the environmental audit was conducted; and*
- (b) state the name of the person who has engaged the environmental auditor to conduct the environmental audit; and*
- (c) be signed by the environmental auditor; and*
- (d) specify the results of the environmental audit*

EPA [Publication 788.3, Siting, Design, Operation, And Rehabilitation Of Landfills](#)¹⁰³

5.1.5 Buffer distances, Page 13

Municipal (putrescible) waste (Type 2 landfill), Table 5.2, 500 metres from building or structures.

Buffer distances and encroachment, Page 14

Where this buffer has been or is proposed to be encroached, design and management practices need to be significantly increased to provide the same level of protection to sensitive land uses. In considering any planning scheme amendment or planning permit applications, in accordance with the Planning and Environment Act 1987, the planning or responsible authority must have regard for the effects of the environment, including landfill gas, on development. Responsible planning authorities must also ensure planning scheme amendments or any review of a municipal strategic statement are consistent with the provisions of Waste Management (Siting, Design and Management of Landfills) and with the relevant regional waste management plan.

...

Where the proposed development or planning scheme amendment that would have the effect of allowing development that encroaches into the recommended landfill buffer area or increases the extent of development within the already encroached buffer area, EPA recommends that the planning or responsible authority require an environmental audit be conducted under Section 53V of the EP Act. The audit must assess the risk of harm to the proposed development posed by the potential offsite migration of landfill gas and amenity impacts resulting from the landfill. Where a planning or responsible authority has relevant and sufficient information from previous assessments or audits, then this may be relied upon in making a decision.

103EPA Publication 788.3 Siting, design, operation and rehabilitation of landfills:-
https://www.epa.vic.gov.au/~media/Publications/788_3.pdf

The EPA guideline does not mandate but only recommends **Section 53V Environmental Audits**.

EPA recommends that the planning or responsible authority require an environmental audit be conducted under Section 53V of the EP Act.

Therefore the council as the relevant authority does not have to ask a developer to submit a **Section 53V Environmental Audit**, nor require the council to request a **Section 53V Environmental Audit** for its own works. The failure to act (i.e. not request a **Section 53V Environmental Audit Report On Risk Caused By Industrial Process Etc.** under the Environment Protection Act 1970) is still a decision. This has only been detailed to show there is an error in the public record (i.e. council minutes). If a council fails to act based on incorrect information in the public record there may or may not be consequences from incorrect information.

There appears to be no external, appeal mechanism when there is an error in a council's public record. In such matters a correction of the public record is not going to be escalated to a court or VCAT. It is an issue that could simply be resolved by a person or authority external to the Council, having an independent examination of an issue. The result would either confirm the Council's statement(s), or ask the Council to examine their statement(s) for accuracy and correct the public record.

In this case, after approximately 6 years with the appointment of a new Mayor the issue has been raised again for review. If an external, informal review process does exist then it needs to be more widely publicised and if it doesn't exist the 2019 review should address this reform.

Another point is that publication of answers to questions must be reported if other people are to be aware of an issue. Greater Dandenong in their minutes has published answers to questions when the person who asked the question is not necessarily in the Public Gallery. In effect these are questions taken on notice with a reply given at the next meeting, therefore answers are not lost from public view

Examination of all Glen Eira minutes for 2018 appears to show up to 8 or 9 questions were not answered in the ordinary meeting minutes because the person was not in the public gallery. City of Casey has the same restriction that requires the person asking a public question must be present in the public gallery. If the person is not in the public gallery then they receive a written answer but that question and associated answer are not recorded in the meeting Minutes. In effect the question and answer disappear from public view.

It is not possible to know in advance what questions are significant or which ones are going to become significant. Therefore all Question Time answers must be minuted to prevent them from disappearing. The Act and Regulations should require any questions submitted for Public Question Time that could be answered should be recorded in the councils ordinary meeting Minutes. Even if this is via a written reply at some later date, or some other method. An answer should always be reported in the ordinary meeting Minutes, or answered at the next meeting as a question taken on notice.

10. Recommendations

- 10.1 The current Act is failing to deliver open and transparent Local Government for all Victorians. Public Question Time and Public Engagement clauses must be included in the Act and Regulations.
- 10.2 Implement in the Act and Regulations a **Request to Speak** option. A person may elect to speak on a maximum of 3 items appearing on the Council Agenda for a particular meeting. Council allows 3 speakers 'For' the matter and 3 'Against', so that a maximum of 6 speakers on any item may be heard. Additional speakers may be allowed on a particular item at the discretion of the Chairperson. Speakers are given 3 minutes each to speak. The speakers are heard prior to the matter being considered and debated by the Councillors.
- 10.3 All committee meetings are to be open to the public.
- 10.4 Any committee meeting can only be closed to the public when Local Government Act 1989, Clause 89(2) applies to an item on the Agenda..
- 10.5 Adopt into the Act the following text after it has been suitably modified

Division 2 - Council Meetings, Committees And Their Meetings And Elector's Meetings

Subdivision 1 - Council Meetings

5.24 Question Time For Publication

- (5) Time is to be allocated for questions to be raised by members of the public and responded to at —
- (a) very ordinary meeting of a council; and
 - (b) such other meetings of councils or committees as may be prescribed.
- (6) Procedures and the minimum time to be allocated for the asking of and responding to questions raised by members of the public at council or committee meetings are to be in accordance with regulations.
- 10.6 Adopt into the Regulations the following text after it has been suitably modified:

Part 2 - Council And Committee Meetings

- (5) **Question time for public, meetings that require prescribed (Act s. 5.24)**
For the purposes of section 5.24(1)(b), the meetings at which time is to be allocated for questions to be raised by members of the public and responded to are —
- (a) every special meeting of a council;
 - (b) every meeting of a committee to which the local government has delegated a power or duty.
- (6) **Question time for public, minimum time for (Act s. 5.24(2))**
- (a) The minimum time to be allocated for the asking of and responding to questions raised by members of the public at ordinary meetings of councils and meetings referred to in regulation 5 is 15 minutes.
 - (b) Once all the questions raised by members of the public have been asked and responded to at a meeting referred to in subregulation (1), nothing in

these regulations prevents the unused part of the minimum question time period from being used for other matters.

(7) Question time for public, procedure for (Act s. 5.24(2))

(1) Procedures for the asking of and responding to questions raised by members of the public at a meeting referred to in regulation 6(1) are to be determined —

(a) by the person presiding at the meeting; or

(b) in the case where the majority of members of the council or committee present at the meeting disagree with the person presiding, by the majority of those members,

having regard to the requirements of subregulations (2), (3) and (5).

(2) The time allocated to the asking of and responding to questions raised by members of the public at a meeting referred to in regulation 6(1) is to precede the discussion of any matter that requires a decision to be made by the council or the committee, as the case may be.

(3) Each member of the public who wishes to ask a question at a meeting referred to in regulation 6(1) is to be given an equal and fair opportunity to ask the question and receive a response.

(4) Nothing in subregulation (3) requires —

(a) a council to answer a question that does not relate to a matter affecting the local government; or

(b) a council at a special meeting to answer a question that does not relate to the purpose of the meeting; or

(c) a committee to answer a question that does not relate to a function of the committee.

(5) If, during the time allocated for questions to be raised by members of the public and responded to, a question relating to a matter in which a relevant person has an interest, as referred to in section *<refer to a relevant clause related to conflict of interest>*, is directed to the relevant person, the relevant person is to —

(a) declare that he or she has an interest in the matter; and

(b) allow another person to respond to the question.

10.7 All questions submitted for Public Question Time should appear in the meeting Minutes. When answers are to be given to the submitter in writing or another method after the meeting, the question can be taken on notice and an answer reported at the next ordinary meeting.

10.8 KnowYourCouncil website to be expanded to provide metrics for Public Question Time and Public Engagement in council meetings.

Summary of Recommendations

1. Donkey Votes

- 1.1 Prior to the drafting of Local Government Bill 2019 the Victorian Electoral Commission (VEC) to re-analyse all 2008, 2012, 2016 and 2017 Local Government General Election datasets to determine the impact of all donkey vote variants and **Observed Probability**.
- 1.2 Prior to the drafting of Local Government Bill 2019 the VEC to report findings of **Observed Probability** with recommendations.
- 1.3 VEC to release all Local Government General Election datasets via the DataVic open data platform.
- 1.4 Release of an election dataset should only occur after the expiry of each the council's term of office.
- 1.5 Eliminate Donkey Vote bias by implementing a Robson Rotation of candidate names on Ballot-Papers based on the following modifications to the Local Government (Electoral) Regulations 2016 legislation. The sample legislation provides Ballot-Paper layouts for 2 to 10 Candidates and could be easily modified for:
 - (d) up to 12 Candidates by including the last two layouts from the Tasmanian Government, [Electoral Regulations 2015](#)¹⁰⁴, or
 - (e) 13 to 30 Candidates with legislation based on the Tasmanian Government, [Local Government \(General\) Regulations 2015](#)¹⁰⁵, or
 - (f) A simpler alternative for a significant range expansion is for the VEC to generate a Robson Rotation suitable for Local Government elections.

Victorian, Local Government (Electoral) Regulations 2019

21a Ballot-Paper Batches

Ballot-paper batches are to be in accordance with Schedule 2.

Schedule 2 — Order of names on Batches of Ballot Papers

1. Definitions

- (1) In this Schedule –
 - batch** means a group of ballot papers on which the names of candidates appear in the same order;
 - column**, in relation to a ballot paper, means a vertical column in which the names of candidates are to appear on the ballot paper;
 - favoured position**, in relation to a column of a ballot paper, means (reading from the top of the column) –
 - (a) if the names of 2 candidates are to appear in the column – the first position in the column; and
 - (b) if the names of 3 candidates are to appear in the column – the first and third positions in the column; and

104Tasmanian Government, **Electoral Regulations 2015**:-

<https://www.legislation.tas.gov.au/view/html/inforce/current/sr-2015-002>

105Tasmanian Government **Local Government (General) Regulations 2015**:-

<https://www.legislation.tas.gov.au/view/html/inforce/current/sr-2015-037>

- (c) if the names of 4 candidates are to appear in the column – the first and fourth positions in the column; and
- (d) if the names of 5 candidates are to appear in the column – the first, third and fifth positions in the column; and
- (e) if the names of 6 candidates are to appear in the column – the first, second, fifth and sixth positions in the column; and
- (f) if the names of 7 candidates are to appear in the column – the first, second, sixth and seventh positions in the column; and
- (g) if the names of 8 candidates are to appear in the column – the first, second, seventh and eighth positions in the column; and
- (h) if the names of 9 candidates are to appear in the column – the first, second, eighth and ninth positions in the column; and
- (i) if the names of 10 or more candidates are to appear in the column – the first, second, third and last 3 positions in the column.

2. Printing and collation of batches of ballot papers

- (1) Ballot papers are to be printed in batches with the ballot papers within each batch having the same order of candidate names.
- (2) There are to be two sets of batches.
- (3) The first set of batches is to be printed in accordance with the provisions of clauses 4, 5 and 6.
- (4) The second set of batches is to be printed so that –
 - (a) there is a batch corresponding to each batch in the first set of batches; and
 - (b) the corresponding batch in the second set of batches has the name of the same candidate in the first position, but the order of the names below that first name is reversed; and

For example, if the order of names on a batch in the first set of batches is ABCDE, the order of names on the corresponding batch in the second set of batches is AEDCB.
 - (c) the number of ballot papers in each batch in the second set of batches is, as far as practicable, to be equal to the number of ballot papers in each batch in the first set of batches.
- (5) All ballot papers are to be collated in accordance with clause 6 and issued in accordance with clause 7.

3. Ballot papers to be printed in equal batches

In relation to each candidate whose name is required to be included in the column–

- (a) there is to be printed, in respect of each of the favoured positions for that column, a batch of ballot papers on which the name of that candidate appears in such a favoured position; and
- (b) the number of ballot papers in each batch on which the name of that candidate appears in that column in a particular favoured position is, as far as is practicable, to be equal to the number of ballot papers in each of the other batches of ballot papers on which the name of every other candidate whose name is to be included in that column appears in that favoured position.
- (c) If there are 6 or more candidates, the name of a candidate is not to appear immediately above the name of a particular candidate on more than one batch of ballot papers, if the names of both candidates would be in favoured positions.

4. Order of names of candidates on first batch

For the printing of the first batch of ballot papers, the names of the candidates in the column or, as the case may be, in the columns are to be listed in the order

- (a) determined by a computerised, single random draw using a system that has been independently certified determining that the draw is completely random and secure from external influence, or,
- (b) a manual draw in a manner determined by the Victorian Electoral Commission.

5. Order for subsequent batches

- (1) The names of the candidates, in the order in which they are drawn are to be represented by the series of letters A, B, C, ... Y, Z, AA, AB and so on in alphabetical order.
- (2) If the field of candidates has to be divided into multiple columns on the ballot-paper then in different batches a candidates should at a minimum appear once in all columns
- (3) Every candidate has an equal chance of being placed in any column.
- (4) Subject to the provisions of this Schedule, the printing order for the second and subsequent batches is to be -
 - (a) for ballot-papers with 2 to 10 candidates as shown in Schedule 3,
 - (b) for ballot-papers with 11 or more candidates
 - (i) the computerised system in 4(a) will produce ballot-papers batches in the form of Schedule 3, or
 - (ii) the Victorian Electoral Commission will publish the ballot-paper matrices for 2 to 60 candidates to be produced by 5(b)(i) for use with 4(b) manual draws, or as required.

6. Collation of ballot papers

Before ballot papers for an election in respect of an electoral division are distributed to returning officers, the Commissioner is to, as far as is practicable, ensure that each issue of ballot papers is collated in such a way that the ballot paper immediately following another ballot paper in the issue is in a form different from that of the other ballot paper.

7. Issuing of ballot papers

When issuing ballot papers, an election official is to, as far as is practicable, issue an elector with a ballot paper in a different form from the previous ballot paper he or she issued.

Schedule 3 - Ballot-Paper Sequences for 2 to 10 Candidates

1. When there are 2 names in the column -

1st batch 2nd batch

A	B
B	A

2. When there are 3 names in the column -

1st batch 2nd batch 3rd batch

A	B	C
B	C	A
C	A	B

3. When there are 4 names in the column -

1st batch 2nd batch 3rd batch 4th batch

A	D	B	C
B	C	A	D
C	A	D	B
D	B	C	A

4. When there are 5 names in the column -

1st batch 2nd batch 3rd batch 4th batch 5th batch

A	C	E	D	D
B	A	C	E	B
C	E	D	B	A
D	B	A	C	E
E	D	B	A	C

5. When there are 6 names in the column -

1st batch 2nd batch 3rd batch 4th batch 5th batch 6th batch

A	B	E	D	F	C
B	E	D	F	C	A
C	A	B	E	D	F
D	F	C	A	B	E
E	D	F	C	A	B
F	C	A	B	E	D

6. When there are 7 names in the column -

1st batch 2nd batch 3rd batch 4th batch 5th batch 6th batch 7th batch

A	B	F	E	G	C	D
B	F	E	G	C	D	A
C	D	A	B	F	E	G
D	A	B	F	E	G	C
E	G	C	D	A	B	F
F	E	G	C	D	A	B
G	C	D	A	B	F	E

7. When there are 8 names in the column -

1 st batch	2 nd batch	3 rd batch	4 th batch	5 th batch	6 th batch	7 th batch	8 th batch
A	B	G	D	H	C	E	F
B	G	D	H	C	E	F	A
C	A	B	E	F	H	D	G
D	E	F	G	B	A	C	H
E	F	A	B	D	G	H	C
F	H	C	A	G	D	B	E
G	D	H	C	E	F	A	B
H	C	E	F	A	B	G	D

8. When there are 9 names in the column -

1 st batch	2 nd batch	3 rd batch	4 th batch	5 th batch	6 th batch	7 th batch	8 th batch	9 th batch
A	B	H	G	I	C	D	E	F
B	H	G	I	C	D	E	F	A
C	D	E	F	A	B	H	G	I
D	E	F	A	B	H	G	I	C
E	F	A	B	H	G	I	C	D
F	A	B	H	G	I	C	D	E
G	I	C	D	E	F	A	B	H
H	G	I	C	D	E	F	A	B
I	C	D	E	F	A	B	H	G

9. When there are 10 names in the column -

1 st batch	2 nd batch	3 rd batch	4 th batch	5 th batch	6 th batch	7 th batch	8 th batch	9 th batch	10 th batch
A	B	H	C	E	I	G	F	D	J
B	H	C	E	I	G	F	D	J	A
C	E	I	G	F	D	J	A	B	H
D	J	A	F	B	C	E	I	G	I
E	I	G	A	D	J	H	B	H	C
F	D	J	B	A	H	C	E	I	G
G	F	D	J	H	B	A	C	E	F
H	C	E	I	G	F	D	J	A	B
I	G	F	D	J	A	B	H	C	E
J	A	B	H	C	E	I	G	F	D

2. Polling Method

2.1 All Local Government elections to be held by postal vote.

2.2 Convene a citizen jury

(a) To review the Local Government Bill 2019

(b) Should the Attendance Election option be deleted?

(c) Should the How-To-Vote option be included?

2.3 Delete the Attendance Election option and the How-To-Vote card based on the following modifications to the Local Government Bill 2018 and Local Government (Electoral) Regulations.

Victorian, Local Government Bill 2019

3 Definitions

~~how-to-vote card means any card, handbill, pamphlet or notice—~~

- ~~(a) which is or includes a representation or partial representation or purported representation or purported partial representation of a ballot paper for use in an election; or~~
- ~~(b) which lists the names of any or all of the candidates for an election with a number indicating an order of voting preference against the names of any or all of those candidates;~~

~~voting centre means a place appointed by the election manager for voting at an election as—~~

- ~~(a) an early voting centre; or~~
- ~~(b) a mobile voting centre; or~~
- ~~(c) an election day voting centre;~~

291 Voting system

- ~~(1) The voting system to be used for general elections and by-elections is to be **postal voting**, determined by the Minister in accordance with this section.~~
- ~~(2) Before making a determination under this section, the Minister must consider advice obtained by the Minister from the VEC.~~
- ~~(3) The Minister must determine the voting system to be used for the first general elections to be held after the commencement of section 286 at least 12 months before the date of those general elections.~~
- ~~(4) The Minister must publish a notice of the determination under subsection (3) in the Government Gazette.~~
- ~~(5) The Minister may determine to change the voting system to be used for general elections at least 12 months before the date of the general elections to which the determination will apply.~~
- ~~(6) The Minister must publish a notice of the determination under subsection (5) in the Government Gazette.~~
- ~~(7) A general election must be held using the voting system that applies under the most recent determination made under subsection (3) or (5).~~
- ~~(8) A by-election must be held using the voting system that was used for the preceding general election.~~
- ~~(9) In this section, voting system means—~~
 - ~~(a) postal voting; or~~
 - ~~(b) attendance voting; or~~
 - ~~(c) any other form of voting determined by the Minister.~~

296 Infringement offence

- (4) In addition to the details required under section 13 of the Infringements Act 2006, the following details of the election to which the alleged infringement relates must be included in an infringement notice served under subsection (2)—
- (a) the name of the Council;
 - (b) if applicable, the name of the ward;
 - ~~(c) if the election was conducted using attendance voting, the date of the election;~~
 - ~~(d) if the election was conducted by postal voting, the date that voting closed.~~

321 Power to request handing over of how-to-vote cards

- (1) The person in charge of a voting centre or a person authorised by the person in charge to act on that person's behalf under this section may request a person reasonably suspected by the person in charge of contravening section 320—
- (a) to produce for inspection any how-to-vote cards in the person's possession; and
 - (b) to hand over all how-to-vote cards. ~~other than registered how-to-vote cards.~~

324 Offences at voting centre

- ~~(2) The person in charge of a voting centre may cause any area in the vicinity of the premises used as a voting centre to be delineated by notices, signs or other means, and that area is to be treated as the voting centre for the purposes of subsection (1).~~

330 Interference with political liberty

- ~~(5) A person must not during the hours of voting within 400 metres of the entrance of, or within the building used as, a voting centre—~~
- ~~(a) make any public demonstration having any reference to the election; or~~
 - ~~(b) use any loud speaker or amplifier or any other apparatus or device for broadcasting or disseminating any matter intended or likely to affect the result of the election.~~

~~Penalty: 1 penalty unit.~~

- ~~(6) Subsections (1) and (5) does not apply to any official statement or announcement made or exhibited under the authority of this Act.~~

331 Powers of election manager or election official

- ~~(1) Any election manager or election official has the power and authority—~~
- ~~(a) to maintain order and keep the peace at any venue used for an election; and~~
 - ~~(b) to cause to be removed any person who—~~
 - ~~(i) obstructs the approaches to a voting centre; or~~
 - ~~(ii) wilfully or unnecessarily obstructs or delays the proceedings at a voting centre; or~~
 - ~~(iii) behaves in a disorderly manner; or~~

- ~~(iv) remains in a voting centre for a longer time than is reasonably necessary for the purpose of voting; or~~
- ~~(v) causes a disturbance at any election.~~

354 Regulations relating to electoral matters

~~Without limiting the generality of section 353, the regulations may prescribe any matter relating to or in respect of the following—~~

- ~~(g) the approval and registration of how-to-vote cards at attendance elections;~~
- ~~(k) the conduct of attendance elections, including early voting at voting centres and mobile voting centres;~~

Victorian, Local Government (Electoral) Regulations

5 Definitions

(1) In these Regulations—

~~**attendance election** means an election conducted in accordance with Part 5;~~

~~**candidate information** means a candidate statement and a candidate indication of preferences lodged in accordance with regulation 38;~~

~~**declaration ballot-box** means a box provided at a voting centre in accordance with regulation 64 for the receipt of pre-poll postal votes and declaration votes;~~

~~**declaration vote** means a vote cast in accordance with regulation 77;~~

~~**indication of preferences** means a document containing an indication of a candidate's preferred order of voting;~~

~~**pre-poll postal vote** means a postal vote cast by a voter in an attendance election in accordance with Division 2 of Part 5;~~

23 Disadvantaged voters signing declarations

(1) If a disadvantaged voter is requested or required to sign a declaration in accordance with Part ~~5 or~~ 6, the declaration may be signed by a person authorised by the disadvantaged voter to sign in the place of the disadvantaged voter.

(2) A person signing a declaration under Part ~~5 or~~ 6 for a disadvantaged voter must clearly write the person's name and the words "authorised signatory" beneath the person's signature.

3. Candidate Information

3.1 Permit Candidates to register How-To-Vote information that the VEC will distribute to all electors.

3.2 A Candidate is restricted to one How-To-Vote list i.e. alternative lists not supported.

- 3.3 When registering as a Candidate a 10,000 word position statement can be submitted to the VEC for publication on the VEC web site with the 200 word Candidate Statement and Questionnaire. A position statement can not be submitted after the close of registration.
- 3.4 In Candidate sourced text a Candidates is able to reference any other Candidate by name in direct relation to information published by a Council e.g. Agenda, Minutes, etc. Only direct quotes or extracts with their Council source document's URL are permitted. It is only permitted to use Council registered domain names and only official publications e.g. comments sections or unedited replies are not permitted unless they are posted by a Councillor, or Council Officer acting within their delegation.
- 3.5 Personal insults or attacks on character, nicknames, etc to be rejected by the VEC. All Candidate supplied text is subject to an appeal process.
- 3.6 All Candidates are able to receive a copy of the original and any updated version of a referencing Candidate's statements.
- 3.7 A Candidate is able to correct any typographical errors created by the deletion of text by the VEC.
- 3.8 A Candidate would not be permitted to add new material (e.g. related to another candidate) when correcting a Candidate Statement that the VEC has been required to modify.
- 3.9 If a 200 word Candidate Statement is not supplied the VEC has the option of using an edited extract of the Candidate Questionnaire in place of the Candidate Statement.

4. Informal Votes

- 4.1 Implement Optional Preferential Voting (OPV).
- 4.2 If OPV is unacceptable then implement Semi-Optional Voting

5. Ward Structures

- 5.1 As a priority the VEC is to generate for the 2019 Local Government Act Review a sequence of single-council ward maps for Casey City from 1996 to 2024. This is to determine the impact of a mandatory, single-councillor ward structure on high growth Interface Councils.
- 5.2 A recommendation to the Minister for engagement of an independent commission (e.g. EBC, VEC, etc.), or appointment of a Local Government Act 1989, Part 10 Local Government Panel to review all Interface Council boundaries to recommend single-councillor and/or multi-councillor ward structures.
- 5.3 Power to review and adjust council boundaries to be assigned to the Electoral Boundaries Commission (EBC) working in-conjunction with the VEC.
- 5.4 If not acceptable for the EBC to review and adjust council boundaries then the power to review boundaries to be assigned to the VEC.

6. Council Boundaries

- 6.1 The VEC performs Representation Reviews for every second election (8 year cycle).
- 6.2 The Electoral Boundaries Commission (EBC) should perform scheduled, Local Government Boundary Reviews in-conjunction with every second VEC Representation Review (16 year cycle).
- 6.3 An unscheduled Boundary Review should occur after the VEC has performed a total of 4 Representation and Subdivision reviews for a council since the last Boundary review.

- 6.4 If there has not been an EBC review within 8 years and a council's population has increased 10% or more then the EBC should perform an internal, informal, desk review. The EBC may initiate an unscheduled, formal Boundary Review after a desk review indicates a formal review may be warranted.

7. Size of Council

- 7.1 A Local Government Bill 2019 should alter the existing upper limit of 12 councillors and replace it with an odd number.
- 7.2 The councillor upper limit should be automatically revised at every VEC Representation Review and:
- (a) calculated from the estimated number of electors at the next election divided by an upper limit of 14,000 Electors Per Councillor.
 - (b) if the calculated result is an even number then the VEC has the option to increment by one the number of councillors i.e. appoint an odd number.
- 7.3 If the variable increase in councillor numbers is not acceptable then increase the upper limit to 17 Councillors.
- 7.4 If the previous recommendations are unacceptable then increase the upper limit to 15 Councillors.

8. Tied Votes

- 8.1 To prevent tied votes only an odd-number of Councillors can be elected to a council
- 8.2 Alternatively, implement direct election of a Mayor and Deputy Mayor by the introduction of a separate ballot paper presented to all electors. Therefore by direct election of the Mayor and Deputy Mayor the issue of a ward receiving an advantage in a tied vote is avoided.

9. Election Of Mayors

- 9.1 Any councillor can put forward the name(s) of any councillor for election as Mayor or Deputy Mayor.
- 9.2 At the public meeting to elect the Mayor the CEO is to temporarily occupy the chair until the Mayor is elected or a councillor is appointed to chair the meeting after the failure to elect a Mayor and Deputy Mayor.
- 9.3 Any councillor can decline to be elected Mayor or Deputy Mayor.
- 9.4 The election of a Mayor or Deputy Mayor is always a secret ballot.
- 9.5 After the election of the Mayor a council must decide to elect one or two Deputy Mayors before the actual election(s).
- 9.6 A councillor can only occupy one office of Mayor or Deputy Mayor.

10. Public Participation and Public Question Time

- 10.1 The current Act is failing to deliver open and transparent Local Government for all Victorians. Public Question Time and Public Engagement clauses must be included in the Act and Regulations.
- 10.2 Implement in the Act and Regulations a **Request to Speak** option. A person may elect to speak on a maximum of 3 items appearing on the Council Agenda for a particular meeting. Council allows 3 speakers 'For' the matter and 3 'Against', so that a maximum of 6 speakers on any item may be heard. Additional speakers may be allowed on a particular

item at the discretion of the Chairperson. Speakers are given 3 minutes each to speak. The speakers are heard prior to the matter being considered and debated by the Councillors.

10.3 All committee meetings are to be open to the public.

10.4 Any committee meeting can be closed to the public when Local Government Act 1989, Clause 89(2) applies to an item on the Agenda.

10.5 Adopt into the Act the following text after it has been suitably modified to be consistent with the Act and Regulations:

Division 2 - Council Meetings, Committees And Their Meetings And Elector's Meetings

Subdivision 1 - Council Meetings

5.24 Question Time For Publication

- (1) Time is to be **allocated** for questions to be raised by members of the public and responded to at —
 - (a) very ordinary meeting of a council; and
 - (b) such other meetings of councils or committees as may be prescribed.
- (2) Procedures and the minimum time to be allocated for the asking of and responding to questions raised by members of the public at council or committee meetings are to be in accordance with regulations.

10.6 Adopt into the Regulations the following text after it has been suitably modified:

Part 2 - Council And Committee Meetings

(5) **Question time for public, meetings that require prescribed (Act s. 5.24)**
For the purposes of section 5.24(1)(b), the meetings at which time is to be allocated for questions to be raised by members of the public and responded to are —

- (a) every special meeting of a council;
- (b) every meeting of a committee to which the local government has delegated a power or duty.

(6) **Question time for public, minimum time for (Act s. 5.24(2))**

- (a) The minimum time to be allocated for the asking of and responding to questions raised by members of the public at ordinary meetings of councils and meetings referred to in regulation 5 is 15 minutes.
- (b) Once all the questions raised by members of the public have been asked and responded to at a meeting referred to in subregulation (1), nothing in these regulations prevents the unused part of the minimum question time period from being used for other matters.

(7) **Question time for public, procedure for (Act s. 5.24(2))**

- (1) Procedures for the asking of and responding to questions raised by members of the public at a meeting referred to in regulation 6(a) are to be determined —
 - (a) by the person presiding at the meeting; or

(b) in the case where the majority of members of the council or committee present at the meeting disagree with the person presiding, by the majority of those members,

having regard to the requirements of subregulations (2), (3) and (5).

- (2) The time allocated to the asking of and responding to questions raised by members of the public at a meeting referred to in regulation 6(a) is to precede the discussion of any matter that requires a decision to be made by the council or the committee, as the case may be.
- (3) Each member of the public who wishes to ask a question at a meeting referred to in regulation 6(a) is to be given an equal and fair opportunity to ask the question and receive a response.
- (4) Nothing in subregulation (3) requires —
 - (a) a council to answer a question that does not relate to a matter affecting the local government; or
 - (b) a council at a special meeting to answer a question that does not relate to the purpose of the meeting; or
 - (c) a committee to answer a question that does not relate to a function of the committee.
- (5) If, during the time allocated for questions to be raised by members of the public and responded to, a question relating to a matter in which a relevant person has an interest, as referred to in section <*refer to a relevant clause related to conflict of interest*>, is directed to the relevant person, the relevant person is to —
 - (a) declare that he or she has an interest in the matter; and
 - (b) allow another person to respond to the question.

10.7 All questions submitted for Public Question Time should appear in the meeting Minutes. When answers are to be given to the submitter in writing or another method after the meeting, they can be taken on notice and then answers reported at the next meeting.

10.8 KnowYourCouncil website to be expanded to provide metrics for Public Question Time and Public Engagement in council meetings.

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