

The Executive Officer  
The Electoral Matters Committee  
Parliament House  
East Melbourne 3002

1 February 2013

Dear Sir/Madam

**Inquiry into the future of Victoria's electoral administration**

The Port Phillip Greens thank you for the opportunity to make this submission. We have attached a copy of our submission.

Yours faithfully

Ann Birrell and Colin Smith  
Port Phillip Greens

### **Discussion point one: direct enrolment**

We support the *Electoral Amendment [Electoral Participation] Act 2010* and other Federal and State initiatives towards direct enrolment. Our experience is that these reforms are well supported by the community.

### **Discussion point two: compulsory voting**

Our experience is that compulsory voting is also well supported by the community.

### **Discussion point three: informal voting**

We share the Committee's concern re increased levels of informal voting.

The AEC has reported that:

*Of the 730,000 informal votes recorded in 2010 election, slightly more than half of those, we regard as assumed unintentional ... and slightly less than half were deliberate errors ... the level of assumed intentional informality is increasing.<sup>1</sup>*

The VEC has reported a similar proportion of unintentional and deliberate informality<sup>2</sup>.

The VEC 2010 Report includes detailed and useful analysis of the informal vote and education and engagement initiatives to minimise unintentional informality<sup>3</sup>. The contribution of a diverse range of groups and perspectives to the political process is inherently valuable and we support these VEC initiatives.

On the issue of intentional informality, we ask that the Committee also look at voter disenchantment as a means to minimise informality.

### ***Complaints about misleading electoral materials***

We appreciate the policy and practical reasons why Australian Parliaments are reluctant to legislate on issues of political content and truth at election time.

Nevertheless, perhaps the VEC could investigate the feasibility of encourage best practice in an educative role, highlighting poor practice.

One option might be to include in the Candidate Handbook, a page of examples of misleading behaviour, not necessarily actionable, but the sort of conduct that voters complain about. This might include:

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<sup>1</sup> Ed Killesteyn, AEC, ABC Capital Hill program, 23/11/12 <http://www.abc.net.au/news/2012-11-23/capital-hill-friday-23-november-2012/4389784>

<sup>2</sup> VEC Report to State Parliament on the 2010 Victorian State Election at p 68 <https://www.vec.vic.gov.au/files/ER-2010-Part1.pdf>

<sup>3</sup> above at p 66

- a) misleading use of distinctive party colours or logos eg misuse of Liberal blue colour or Greens colour or triangle<sup>4</sup> or ALP features by other parties;
- b) confusing statements about residence eg *I am the only candidate living in Prahran* (confusing the electorate with the suburb);
- c) statements that a candidate is *independent* when they currently are or until recently were a member of a political party (it is our experience that voters consider membership a relevant issue, not just endorsement);
- d) fail to acknowledge political or other relevant affiliations;
- e) misleading second preference HTVs imitating other party HTVs;
- f) misleading conduct;
- g) standing non genuine/dummy candidates;
- h) fail to tell the truth, to act honestly and with integrity; and
- i) misleading statements about other parties policies, preferences or association.

The NSW EC has limited examples re names and logos in the NSW Candidate Handbook<sup>5</sup>.

Many voters and candidates would like to see the VEC investigate action to reduce the use of unacknowledged running mates/dummy candidates, some have suggested that the VEC should look at the feasibility of limiting preferences on HTVs.

#### ***Complaints about the lack of relevant, neutral information on candidates.***

Some voters arrive at polling booths furious and incredulous over lack of information, let alone relevant and neutral information, on candidates.

One option might be to include in the candidate's handbook, a sample 'best practice' short standard CV. It could be limited to say 400 words and include answers to a set of standard questions, the sort many voters ask us on polling day.

These might include basic questions such as work history, community involvement, political affiliation, qualifications, policies and beliefs/values, business, union, activism and membership of organisations and clubs and details of any professional, financial or personal relationship with any other candidate.

Another option might be to for the VEC to investigate the feasibility of requesting this information on enrolment and to post this standard CV from all candidates on the VEC website and perhaps also on a prominent board inside the polling booth.

#### ***Cynicism about Party involvement in postal voting***

We share the VEC concern re postal voting:

*The VEC continues to be concerned about party involvement in the distribution of postal vote applications ... The Act allows for other individuals or groups besides the Electoral Commission to distribute postal votes. This causes elector confusion regarding the source of postal vote applications, as electors assume that any postal vote applications available at State elections are provided by the VEC. Four formal complaints related to the distribution of postal voting applications by political parties*

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<sup>4</sup> See for example, Submission of the Port Phillip Greens - Inquiry into whether the Electoral Act should be amended 3 August 2009 [http://www.parliament.vic.gov.au/images/stories/committees/emc/5Port\\_Phillip\\_Greens.pdf](http://www.parliament.vic.gov.au/images/stories/committees/emc/5Port_Phillip_Greens.pdf)

<sup>5</sup> Handbook for Parties, Groups, Candidates and Scrutineers at Local Government Elections 2012 at p 37 [http://www.tweed.nsw.gov.au/CouncilStructure/pdfs/LG200\\_Candidate\\_Handbook\\_txcov\\_v2.pdf](http://www.tweed.nsw.gov.au/CouncilStructure/pdfs/LG200_Candidate_Handbook_txcov_v2.pdf)

were received during the 2010 State election, along with a number of telephone calls and emails relating to the issue.

Note 1: The VEC requests that the Committee notes that this issue continues to raise concerns among electors<sup>6</sup>.

Many voters express concern about candidates sending out postal vote applications. It creates confusion, particularly before registration has been completed.<sup>7</sup> It subverts independent process and provides an unfair electoral advantage to better-resourced candidates. As one voter said:

*The practice is preposterously lax. There is no level playing field. The candidates that are well resourced provide semi official material with their own logo. Only those with funds can compete and they get a disproportionate number of the postal votes.*

As Greg Barber noted:

*On the subject of postal voting ... one amendment ... would have prohibited political parties from interposing themselves in the process of people applying for a postal ballot. This was contained in the VEC's report under recommendations for legislative consideration, when it said that to avoid elector confusion and to ensure applications are distributed and received within the legislative time line, the Act should be amended so that only the electoral commission can distribute postal vote applications<sup>8</sup>.*

### **Many voters express general cynicism**

We believe there is significant community support for bans on certain classes of political donations, caps on electoral expenditure, improved transparency in disclosure of donations, and stricter limits on conflict of interest type activity by retiring MPs<sup>9</sup>.

We share community concern re the VEC report on the increasing pressures on Australian political parties and candidates to become dependent on corporate funding<sup>10</sup>.

### **Discussion point four – early voting**

We support the VEC Recommendation 4:

*The VEC recommends that the Act be amended so that early voting commences on the Monday after nominations close to provide additional time for the VEC to produce and distribute ballot papers and permit electors to vote above-the-line if they so choose.<sup>11</sup>*

We also suggest that the early voting period should run for only one or two weeks not three or four weeks, for the following reasons:

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<sup>6</sup> VEC Report to State Parliament on the 2010 Victorian State Election at p 99 <https://www.vec.vic.gov.au/files/ER-2010-Part1.pdf>

<sup>7</sup> VEC 2010 State Election Plan at p 30 <https://www.vec.vic.gov.au/files/2010StateElectionPlan.pdf>

<sup>8</sup> Greg Barber, Hansard 27 July 2010

<sup>9</sup> AG Constitutional Reform and Democracy Policy

[http://greens.org.au/sites/greens.org.au/files/policydownloads/Constitutional%20Reform%20and%20Democracy\\_0.pdf](http://greens.org.au/sites/greens.org.au/files/policydownloads/Constitutional%20Reform%20and%20Democracy_0.pdf)

<sup>10</sup> Who pays the piper calls the tune : minimising the risks of funding political campaigns : inquiry into the conduct of the 1987 federal election and 1988 referendums / report number 4 of the Joint Standing Committee on Electoral Matters.

[http://www.aph.gov.au/Parliamentary\\_Business/Committees/House\\_of\\_Representatives\\_Committees?url=/report\\_register/byparlist.asp?id=35th](http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=/report_register/byparlist.asp?id=35th)

<sup>11</sup> VEC Report to State Parliament on the 2010 Victorian State Election at p 100 <https://www.vec.vic.gov.au/files/ER-2010-Part1.pdf>

- a) there are very few voters in the first two weeks of early voting, and until after VEC notification;
- b) it is an unnecessary expense for the VEC and candidates;
- c) it is an added burden that discourages candidates from standing;
- d) it provides an unfair advantage to better resourced candidates as others do not have means to staff pre polling booths for a longer period;
- e) it is a distraction from policy and the political campaign;
- f) it complicates the election process, involving candidates in a significant amount of complex red tape for no significant public benefit; and
- g) people voting in the first 2 weeks get frustrated and angry that they have not received any information, and that there is little information available at the polling booth from candidates.

Many suggested that the VEC Timetable needs to be reviewed to coordinate the issue of the EasyVote Guide, the start of early voting and the mailing of postal voting material as the current timing leaves many voters confused and ill-informed as above.

### ***How-to-vote card registration***

Some candidates in the 2012 Local Government elections expressed concern over implementation of new s82 of the *Electoral Act 2002*. This is the provision that states that, after registering HTVs, the VEC should arrange for HTVs to be available for inspection at electoral offices and on an internet website.

There seemed to be some confusion and different practices at different electoral offices. Some candidates said that HTV cards were registered but additional copies were not submitted on registration and the HTVs were not available for viewing in any format.

The VEC has expressed concern that where candidates register more than one HTV, it is possible that cards not intended for distribution, could be downloaded and distributed by a third party<sup>12</sup>.

Apart from this concern, which may need further review, we are not sure why hardcopies should not be available at electoral offices as they are registered.

### **Discussion point seven – social media and Victorian electoral administration**

We support VEC Recommendation 7.

*The VEC recommends that consideration be given to providing the VEC with the power to require information to be provided to it concerning the name and address and any other identifying detail of any person publishing electoral advertisements or electoral matter online<sup>13</sup>.*

We note that the AEC states that it prioritises action against anonymous electoral advertisements over advertisements containing less serious instances of apparent non-compliance<sup>14</sup>. We ask that

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<sup>12</sup> VEC Report to State Parliament on the 2010 Victorian State Election at p 99 <https://www.vec.vic.gov.au/files/ER-2010-Part1.pdf>

<sup>13</sup> above at pp 92, 101

the VEC be supported in taking a similar approach and that the Electoral Matters Committee recommend the amendments sought by the VEC.

This recommendation arises out of an incident in the 2010 State election for the seat of Albert Park.

### **Anonymous defamatory Google ads in the 2010 State Election**

In the week preceding the 2010 State election, two candidates were defamed in anonymous Google advertisements. The advertisements did not include authorising provisions, in breach of s83.

The Greens immediately contacted Google and asked for the ads to be removed and for the name of person who posted the ads. Overnight Google removed the ads but replied that a Court order was required for Google Inc. to disclose the identity of the person who posted the ads.

We wrote to the VEC asking the VEC to take action for breach of s83. After receiving legal advice, we wrote again to the VEC suggesting they take action with a 'Norwich Order' or some other discovery proceedings.

The VEC has formed the view that it does not have power to take action:

*The VEC was not in a position, under the legislation as it currently stands, to obtain an order in this form' ... The VEC recommends that consideration be given to providing the VEC with the power to require information to be provided to it concerning the name and address and any other identifying detail of any person publishing electoral advertisements or electoral matter online <sup>15</sup>.*

The details of the breach are as follows:

On 20, 21 November 2010, a Google search for 'Ann Birrell' (Greens Candidate) or 'Serge Thomann' (independent, who preferred the Greens) led to Google ads:

- [Albert Park voter? Do you really know Serge Thomann? Say NO to this Liberal deception.](#)
- [Who is Serge Thomann for? Celebrity obsessed paparazzo? or something far more sinister?](#)
- [Don't trust sleazy Serge? 2 years on council and nothing done? So who to vote for in Albert Park?](#)
- [Waterfront Place Myths There is no planning application, So Serge is lying to get elected](#)

The URL [vic.greens.org.au](http://vic.greens.org.au) was at the end of each ad. Clicking on the hypertext links or the URL took the reader to the Victorian Greens website, giving the impression that the ads were placed by the Greens. For example:

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<sup>14</sup> AEC Electoral backgrounder – Electoral Advertising , November 2012

[http://www.aec.gov.au/About\\_AEC/Publications/Backgrounders/files/2010c-eb-electoral-advertising.pdf](http://www.aec.gov.au/About_AEC/Publications/Backgrounders/files/2010c-eb-electoral-advertising.pdf)

<sup>15</sup> VEC Report to State Parliament on the 2010 Victorian State Election at p 92 <https://www.vec.vic.gov.au/files/ER-2010-Part1.pdf>

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Web Images Videos Maps News Books Gmail more v

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About 28,200 results (0.15 seconds) Advanced search

Everything  
Images  
More

Melbourne VIC  
Change location

The web  
Pages from Australia

Standard view  
Sites with images  
More search tools

**Who is Serge Thomann for**  
vic.greens.org.au Celebrity obsessed paparazzo? or something far more sinister?

**Vote Independent in 2010**  
www.serge2010.com.au Cr. Serge Thomann State District of Albert Park

**Councillor Serge Thomann - City of Port Phillip Website**  
Serge Thomann, elected to Council in 2008, lives and works in Catani. He has been an active citizen of Port Phillip for 25 years. As one of Australia's most ...  
www.port Phillip.vic.gov.au/catani\_ward.htm - Cached - Similar

**Serge Thomann | Facebook**  
Friends: Andrew Hosking, Bertrand Zirgel, Brian Canham, Daniel Scott, Jj Hamilton  
Serge Thomann is on Facebook. Join Facebook to connect with Serge Thomann and others you may know. Facebook gives people the power to share and makes the ...  
www.facebook.com/people/Serge-Thomann/636040408 - Cached - Similar

Images for serge thomann - Report images

**The RAW Gallery - Rock & Pop music cultural imagery – Melbourne ...**  
Serge Thomann is one of Melbourne's top music and celebrity photographers. Born in the Alsace region of France, he has been based in the Melbourne area of ...  
therawgallery.com/photographer/serge-thomann/ - Cached

**Serge Thomann To Put St Kilda on Display - Undercover - Your Daily ...**  
14 Mar 2010 ... Renowned photographer, politician and St Kilda resident Serge Thomann will showcase the changing face of St Kilda in his first photo ...  
www.undercover.fm/.../10445-serge-thomann-to-put-st-kilda-on-display - Cached

Serge Thomann - IMDb

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The incident is minor but sets a concerning and serious precedent. It is now over two years since the issue was first raised and investigated by the VEC. We ask the Electoral Matters Committee to support the VEC and assist in expediting the reforms.

Failure to address these incidents is unfair. Our experience is that there is overwhelming community support for action to stop electoral fraud.

It is demoralising for candidates. It encourages an attitude of 'anything goes' and poor behaviour. It leads to cynicism among voters. It diminishes respect for and confidence in administration of our electoral system.