

Submission to Discussion Paper

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Organisation/council name:	City of Melbourne
Position/job title	Councillor
Are you providing this submission on behalf of yourself or the organisation?	Myself

On the following pages are questions on each chapter of the discussion paper to assist you in the preparation of your submission. In addition, there is space at the end of the document to add your own views/comments on any matters relating to the Local Government Act review.

Scope of submission

I generally support the submission made by the City of Melbourne administration to this review of the Local Government Act 1989, other than on chapter 3, where I believe the submission is flawed as its support for the existing electoral system is not grounded in a sound policy basis.

This submission is accordingly limited to the matters raised in chapter 3 of the discussion paper.

Chapter 3 – How councils are elected

1. The City of Melbourne administration argues that the “directly elected Lord Mayor/Deputy Lord Mayor and councillors system within this municipality is highly effective and should be considered as a model for all of local government”.

The City of Melbourne’s system of a directly elected Lord Mayor and Deputy Lord Mayor takes the concept of a directly elected mayor and adds an additional vote on Council with a deputy from the same team, creating an artificially inflated majority once these two votes are added to the votes from the same team’s elected Councillor ticket. This distorts the will of the electorate by granting additional votes to the team with a plurality of votes. This is counter to the principles of proportionality and one vote one value. While the current term of Melbourne City Council has fortunately not seen a ‘government vs opposition’ style of governing, the artificial majorities created by electing both a mayor and deputy mayor from the same ticket, separately to the proportionally elected Councillor ticket, does encourage such a practice. (The 2004-2008 Melbourne City Council term was marked by this ‘government vs opposition’ style and a breakdown in collaboration and communication between Councillors due to the artificial majority created by the system of election.)

There is no sound policy basis for the election of both a Lord Mayor and Deputy Lord Mayor from the same ticket; the Deputy Lord Mayor should not be directly elected – this will reduce the distortion of proportional representation described above.

For the same reasons, it is inappropriate to recommend that the direct election of both the mayor and deputy mayor together, separately from other Councillors, be adopted by other Councils.

2. To ensure the integrity of the electoral system, additional powers should be provided to the Victorian Electoral Commission. Currently, the CEO's electoral roll for the City of Melbourne is unique, and is put together by Council staff. This function, if it is to continue (see my other comments on this matter below), should be administrated by the VEC, independent of the Council.
3. The City of Melbourne administration argues that the current City of Melbourne franchise model "is sound and functions well to represent the interests of all constituents within the municipality. The vote of both property owners and occupiers and non-property interests recognises the valuable role of both personal and corporate interests in Melbourne. A balance that protects the interests of all constituents and a right to participate through voting is important."

The administration is notably silent on the granting of two votes to each corporation (i.e. two natural persons associated with each corporation), and up to two votes for non-resident property owners and occupiers (i.e. two natural persons associated with each), while limiting residents to one vote.

There has never been a sufficient explanation given by the State Government, or any sound policy basis established, for this distortion of access to the Local Government franchise. In addition, the City of Melbourne's franchise is very difficult to understand and so is poorly understood by the communities the Council seeks to represent.

Given the lack of any satisfactory policy basis for the business vote gerrymander, the City of Melbourne Act must be amended to remove those provisions which grant special rights and additional votes to corporations and non-resident property owners above and beyond the provisions of the Local Government Act. At the very least, if the breadth of the non-residential franchise is maintained, no rateable property or corporation should be entitled to *two* votes.

Melbourne City Council remains the only Council in the country where a majority of elected Councillors do not reside within the municipality; this matches the electoral roll established by the City of Melbourne's distorted system, where residents make up only 40% of the roll. Whilst not living in the municipality is not in and of itself a problem, the purpose and role of local government is subverted when a majority of Councillors are in this category.

The Georgiou review found that there was no sound policy basis for the granting of two votes to corporations and many owners of rateable properties, to every resident's one. The Directions Paper arising from this review of the Local Government Act must surely make the same conclusion.

4. The City of Melbourne administration supports the removal of the need to exhibit the electoral roll. This should only be contemplated if the City of Melbourne roll is

the same as that for other Councils. So long as the City of Melbourne carries its own unique franchise entitlements, there must be an element of public access to allow scrutiny.

5. The City of Melbourne administration argues that the “rules on donations to Councillors should mirror rules for donations to State Parliamentarians.”

The Melbourne City Council has lost quorum multiple times during this term of Council, and the recurring cause of this has been indirect conflicts of interest arising from the receipt of donations for election campaigns from property developers. On this issue, no Councillor has breached the provisions of the Act, however the Act clearly facilitates a situation whereby quorum can regularly be lost on important town planning matters. Non-conflicted Councillors are disenfranchised on such matters, and are unable to execute the duties for which they were elected. Clearly, it is the Act which needs to change, to reduce the impact of developers’ influence on Council decision-making. On this issue we should be following the New South Wales government’s lead.

6. The revised Local Government Act should not preclude Councils from choosing to conduct elections through either attendance or postal voting as they see fit. It must be noted that attendance voting systems always entitle voters to opt for a postal vote if they are not able to vote by attendance; ‘attendance voting’ therefore provides more voting options than ‘postal voting’, and should not be disallowed by legislation. Attendance voting also allows candidates who are not supported by wealthy campaigns to engage directly with voters. Mandating postal voting for all Councils would have the net effect of advantaging those candidates who can afford to mail voters directly. A Labor Government must not contemplate such an attack on community-based Council candidates.
7. Finally, and most importantly, the current provisions for elections conducted by postal voting are disenfranchising thousands of voters whose votes are received after ‘election day’ which, being a Saturday, is a day where mail is not sent or received by Australia Post. 4,335 ballots were received after the day known as ‘election day’ at the 2012 City of Melbourne election. None of these votes were counted.

With Australia Post’s declining service levels, more Victorian-resident voters will need to ensure that their ballots are posted by the Wednesday before ‘election day’ to guarantee that their ballots arrive by the Friday, and can be counted on election day. It is a safe prediction that the number of ballots which will be received after ‘election day’ in 2016 will rise sharply, disenfranchising many thousands of voters in the City of Melbourne alone, unless the makes minor amendments to the Local Government Act in advance of the 2016 elections.

The Government must give urgent consideration to allowing ballots received on the first two business days after ‘election day’ to be admitted to the count, and to

changing the communications and advertisement procedures for elections to ensure that all voters – particularly those from non-English speaking backgrounds – are fully aware of the timelines involved and are not confused by the counter-intuitive concept that votes must be cast well ahead of the day described as ‘election day’.

To not do so, the Government will be knowingly disenfranchising many thousands of voters. This issue warrants special, limited legislation in early 2016, prior to the omnibus changes arising from the Local Government Act review which are anticipated to be made after the 2016 Local Council elections.

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