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Submission on Local Government Victoria's Electoral Representation Reviews Consultation Paper 2009

This submission deals with the options in [the above paper](#) under the headings in that paper repeated below.

4.1 Time between reviews

This is covered in 4.3 below.

4.2 Separate process for councillor numbers

The review poses three questions here, which are responded to under each below:

- What process might be best used to independently decide the number of councillors?

PRSAV-T Inc. considers that Victoria should provide for this matter by adopting the [Constitutional Referendum process](#) provided for that purpose in the *Local Government Act* of New South Wales. The costs and benefits of having a particular number of councillors set within the range of options specified in Victoria's *Local Government Act* should be essentially a matter for the citizens of the municipality involved, who pay the municipality's rates and are the people that are, by far, the most affected by the Council's decisions, so the precise number of councillors should not be a matter minutely controlled by a higher level of government.

The broad range of options should set upper and lower limits for all Councils, where the present range of 5-12 councillors should be changed to 5-15 councillors, [as in NSW](#), to allow very populous municipalities to have 15 councillors (a total that is an uneven number and also allows wards each with an uneven number, which is an arrangement not presently achievable in Victoria with more than a total of 9 councillors).

Victorian Councils are constrained to a much lower ratio of councillors to population than their counterparts in each of their neighbouring jurisdictions of NSW, SA and Tasmania. SA has four municipalities as populous as Greater Geelong, which is the only Victorian municipality with the statutory maximum number of councillors (12), but each of those [SA Councils](#) has at least 16 councillors. Launceston, which is Tasmania's most populous municipality, has an enrolment of some 46,000 people, but it still has 12 councillors, as do six other less populous [Tasmanian municipalities](#).

The Act should also require:

- that the total number of councillor positions should always be an odd number so that the voting in Council meetings is less likely to result in a tied vote,
- that each ward should always have the same number of councillor positions, and
- that the number of councillors per ward, or if there are no wards, the whole number of councillors, must always be [an odd number](#), as that is — as explained at that hyperlink — the only way in which a majority of votes in a ward, or undivided municipality, can be certain to correspond with a majority of seats.

The Act should also be changed to provide that the chairperson of any meeting of a Council or its committees can exercise either a deliberative vote or a casting vote, but not both, so that motions can only be carried by a majority of the votes with no councillor exercising more than one vote, and motions that receive a tied vote must be lost. That democratic arrangement applies in all of Australia's legislative chambers, and in all municipalities in [SA](#) and [Tasmania](#), and it is also the common law position.

Parity among wards is desirable to remove the anomalies and inconsistencies that exist, and can be and are exploited, with the lack of parity produced by the present ability for a municipality's wards to return different numbers of councillors, resulting in different quotas for election and therefore variations between wards in the their degree of effective voting. The present potential for some wards to be arbitrarily discriminated against compared with others should be removed by requiring each ward to elect the same number of councillors.

The effect of the above recommendations is that a municipality without multi-councillor wards could only have either 5, 7, 9, 11, 13, or 15 councillors, and that a municipality with multi-councillor wards could only have either 9 or 15 councillors. Recent experience shows that municipalities that are not very populous are essentially non-metropolitan and manage well with 5 or 7 councillors. Municipalities that are very populous, and that choose to have multi-councillor wards, are essentially metropolitan and are presently likely to have 9, 10, or 12 councillors, whereas the recommended provision would permit them to have either 9 or 15 councillors, leading to a doubling of the preferred uneven number options, with the advantage of eliminating the 10-councillor option where, undesirably, the number of councillors per ward and the total number of councillors are each even numbers.

The citizens of every Victorian municipality are presently trusted to choose between various candidates that they have never seen — but are aware of largely by means of a photograph, and each candidate's 150-word election statement posted to electors by the VEC — so it would seem reasonable to believe that they could also be trusted to choose between the cases for and against a change from their present number of councillors to a different number proposed by the Council at a Constitutional Referendum and vote YES or NO accordingly after a public campaign has aired the issues, and involved the whole municipality's citizens in determining the outcome.

There would be value in the Act providing, in addition to Council-initiated Constitutional Referendums, that a defined percentage of those on the electoral roll, say 5 or 10%, could, by a written demand, require that a Constitutional Referendum proposing an arrangement allowed under the Act be held, but it would seem reasonable, on cost grounds, that such elector-initiated referendums should only be able to be held in conjunction with a periodic election of councillors.

- What course of action would be taken if the number of councillors determined by that process is not a good fit for the preferred electoral structure?

Whether the number of councillors is a good fit depends on who is making that judgement and what their criteria are. With the method of establishing the number of councillors recommended above, that is a matter for the voters in the municipality. The method allows any previous decision to be revisited democratically in an orderly manner, so that is the open and straightforward democratic course of action that would be taken by persons that did not consider the number to be a good fit, and their contention would be judged by the municipality's voters.

- What would be the cost impact for Councils of having a separate process for determining the number of councillors?

The cost would be that for the conduct of a Constitutional Referendum. The amount could be estimated from the cost of Council elections or past referendums in that municipality or other comparable municipalities.

The cost would be very small if the Constitutional Referendum were to be held in conjunction with a periodic election of councillors. There is a good case for minimizing costs by the Act requiring that Constitutional Referendums cannot, except on the establishment of a new municipality or defined major restructure, be held otherwise than in conjunction with a periodic election of councillors.

4.3 Separate structure and boundary reviews

PRSAV-T Inc. considers that structure reviews should be the province of the Council and its electors, by means of Constitutional Referendums, as outlined above, but it supports the present arrangement of the Electoral Commission conducting boundary reviews, which are more technical and are needed because of structure changes and changes and relocations of numbers of electors.

The review poses four questions here, which are answered below:

- How often would boundary reviews be conducted?

They would be conducted as a result of any structure changes to be implemented as the result of a Constitutional Referendum and — at intervals not greater than those at which they are currently conducted — to compensate for changes and relocations of numbers of electors.

- How often or under what circumstances would structure reviews be required?

This question is answered in the response to the first question under 4.2 above.

- Who would conduct boundary reviews and who would conduct structure reviews?

Boundary reviews would be conducted by the Electoral Commission and structure reviews would be initiated only when a Constitutional Referendum was initiated by the Council or a percentage of electors prescribed in the Act. It would seem desirable to remove the present little-used option for electoral commissions other than the Victorian Electoral Commission to conduct reviews, as commissions in other States are even further removed from the local scene than the VEC is, and consistency in outcomes across Victoria is unlikely to be increased by a variety of interstate electoral commissions being involved.

- What would be the cost impacts on Councils of having two types of review?

The boundary reviews alone should be simpler and therefore considerably less expensive than having two types of review conducted by an organization external to the municipality.

4.4 Independent panels

These panels are not supported, for the reasons given above in recommending Constitutional Referendums for structure reviews, and the Victorian Electoral Commission alone for boundary reviews.

4.5 Formal role for Councils

Legislation should prohibit the municipality as a corporation or its Chief Executive Officer or other Council officers identifying themselves as such, from making a submission as such submissions, particularly if supported by only a narrow majority of councillors, can give the community a distorted impression of the mixture of opinions of the councillors or its staff and the relative strengths and substance of those opinions.

The community is far better served by the various councillors making their own submissions, acknowledging their positions as elected councillors, so that electors can compare the different arguments, for and against proposed changes, being put by their representatives, and reflect on the relative merits and possible motives for the positions being declared or not declared, as the case may be.

Legislation should also prohibit municipal expenditure on promoting a viewpoint held by the Council or its councillors, although that should not extend to the cost of preparation of a staff report for the information of the Council.

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for Proportional Representation Society of Australia (Victoria-Tasmania) Inc.