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2011-05-12

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Direct Election of the Mayor of Greater Geelong

Proportional Representation Society of Australia (Victoria-Tasmania) Inc. has considered Local Government Victoria's [Discussion Paper](#) on the above subject and provides the following submission in regard to it. PRSAV-T Inc. has annotated that Discussion Paper to criticize certain aspects of it *in situ*, and a copy of that [annotated Discussion Paper](#) is shown after the comments listed below.

Summary of Conclusions:

- Victoria's general system of Mayors and Deputy Mayors being elected by councillors is preferable to their being elected directly by electors. It - and not the thrust of the Discussion Paper - faithfully follows the way Victoria's Parliament, by its *Local Government Act 1989*, properly emphasizes the **leadership role** of Councils. The Act's **main role for Mayors** is taking the chair at Council meetings.
- The device of "**joint nomination**" of Lord Mayor and Deputy Lord Mayor effectively and artificially doubles the voting power on the Council of the Lord Mayor. It creates a situation where that duo can easily be out of step with the majority of the other councillors. It has not been a model for other Australian States. It should not spread to Greater Geelong, and should be abandoned for Melbourne.
- If Victoria is to persist with the popular election of Mayors or even extend it, it should introduce a statutory provision similar to the **New South Wales Constitutional Referendum arrangement** where Councils may initiate changes towards or away from such popular election, but they cannot take effect until approved by the electors at a referendum. That applies to all Councils, and is not *ad hoc*.
- Victoria should, if popular elections of Mayors are not to be dispensed with, legislate to have such elections conducted as in Tasmanian local government, where the primary focus is on the councillors, who are all elected on the same basis, and Mayors and Deputy Mayors are concurrently elected from **successful councillor candidates only**. Mayors should not be councillors *ex officio*, rather Mayors should be regarded as councillors primarily and Mayors secondarily.

Direct Election of Mayors by Electors

PRSAV-T Inc. notes that, certainly for Victoria, the major elected bodies that have effect on citizens have nearly all, since their establishment, not had their principal or presiding officer directly elected by the people that have the right to vote for those bodies. The emphasis in electoral arrangements has always been placed on directly-elected representative bodies, with the principal or presiding officers of those bodies being persons that have been elected for that purpose by the bodies they are chairing, or serving as principal spokespersons for. They are elected from the members of those bodies, and some have shorter terms than the members' terms of office, or are **removable by those bodies** as they see fit.

These major elected bodies, whose elections are participated in by large numbers of Victorians, include both houses of the Federal and Victorian Parliaments, all Victorian municipal councils ever (except for the City of Melbourne since 2001), all Australian public companies operating in Victoria, and large community organizations such as the synodical churches (Anglican, Uniting, etc.) and groups like Royal Automobile Club of Victoria, National Trust of Australia (Victoria), and the Australian Conservation Foundation.

Among the many Prime Ministers, Premiers, Lord Mayors, Mayors, Archbishops, Moderators, and Presidents of such groups that have served in Victoria over many decades, only a few Lord Mayors of Melbourne have been popularly elected. That experiment's results do not justify extending it elsewhere.

PRSAV-T Inc. considers that it is a sound democratic principle for representative bodies (whether unicameral or bicameral) in a democratic country or organization to be the collective holders of powers that are to be exercised on behalf of the electors for those bodies. Where a single individual is needed to hold a particular unique position of major significance in relation to the representative body, such individuals should not be elected by the same electors that elected the representative body, but be elected, appointed or otherwise accepted by the representative body in question, as has long been the case with our parliaments, which pre-dated, but still set the major rules for, our local government bodies.

Victoria's *Local Government Act 1989*, [Section 3D\(2\)](#), states a Council's role. Paragraph (b) of that section states "*The role of a Council includes providing **leadership** by establishing strategic objectives and monitoring their achievement.*" The Act's provision relating to the Mayor is, by contrast, sensibly minimal, as it is limited to declaring that the Mayor "*takes precedence at proceedings*" and "*must take the chair all meetings of the Council at which he or she is present*". Leadership is thus the **Council's** role.

As soon as the election or appointment of such officers is removed from the relevant representative body, that body's significance and role is reduced, as two rival centres of influence and authority are created where previously there was only one centre – the elected representative body. In debates on possible republican government for Australia, that conflict has been a principal argument of those arguing for a President appointed by the Parliament, as opposed to a President being directly elected by the electors. Mayors should not be councillors *ex officio*, but should first be elected by electors as councillors.

Basis of Proposal for Direct Election of Mayor of Greater Geelong

The Discussion Paper above states that, in response to community requests to directly elect the Mayor of Greater Geelong, the Government has agreed that Greater Geelong electors should be able to directly elect their Mayor. It does not reveal how many requests of that nature were received for Greater Geelong, nor how many, if any, have been received for Victoria's other 77 municipalities, which have always had indirectly elected Mayors.

PRSAV-T Inc. considers that a far better basis for making such a change, if Government wishes to make such a change, is for a [Constitutional Referendum system](#) to be established for local government, as in New South Wales. In that way, there is a statutory procedure for the basis on which the Mayor is elected to be tested in any municipality where there might be some interest in changing it, but where there might also be a body of opinion that prefers the *status quo*. It is more satisfactory to test such matters in a thoroughly democratic way than to merely react to a few requests that might not be widely welcomed.

The answer to the question in the Discussion Paper, "Why a directly elected Mayor?", could just as logically be used to answer a question, "Why a directly elected Premier?", with the answer being the same, but with the omission of the first sentence, and the substitution of:

"Victoria" for "Greater Geelong",

"the National significance" for "the State and Regional significance",

"Premier" for "Mayor",

"the State" for "the City", and

"Parliament" for "Council".

Need for Victoria to abandon the ill-conceived device of electing a "Leadership Team"

The statutory device of "[joint nomination](#)" to elect a "Leadership Team" has appeared in local government elections only in Victoria. Although it is touted as "direct election" of the Mayor and Deputy Mayor, it is in reality a system for electing them [each indirectly](#), as a group of two persons. The election of the "Leadership Team" as such is by popular election, which is a direct election of the team, but that does not amount to the election of the two ganged candidates themselves being a [direct election](#) of either of them.

All a candidate can vote for is a package, as the voter has no way of dissociating a candidate for one office that they might prefer from a candidate for the other office that they might oppose. In practice, the candidate for Mayor is obviously going to be the more electable and better-known candidate with the more significant role and function, so the electoral success of the "team" unfairly hinges on that candidate.

A fair summation of the misguided system of joint nominations for those two offices is that the Deputy Lord Mayor is really an unelected councillor. His or her qualities cannot meaningfully be given individual or equal consideration by voters (*despite his or her vote on Council, if elected to it, being of equal value to that of the Mayor*), as voters' focus is directed to a "team" dominated by the Lord Mayoral candidate.

The joint nomination device is a re-emergence in Australia, of a practice that has only emerged twice before - in our history of general or periodic public elections - namely election otherwise than by the direct election of individual candidates. The [two previous occasions](#) were a Dunstan Government party list system in 1973 for elections to South Australia's Legislative Council, and a party list system that operated for elections to the Legislative Assembly of the Australian Capital Territory in 1989 and 1992. Public dissatisfaction led to both of those unacceptable systems soon being replaced with preferential systems of direct election.

If Victoria is to persist with popular election of Mayors it should use the Tasmanian system

Tasmanian Mayors and Deputy Mayors are all [elected by a system](#) that avoids confronting municipal electors with the rigidities, anomalies and imbalances of the systems for popular election of presiding officers that apply in New South Wales, South Australia and Melbourne City Council. Instead, the position of Mayor, and the separate position of Deputy Mayor, cannot be filled by a person that has not first been elected as a councillor on the same basis that each other councillor is elected.

Separate ballots for Mayor and Deputy Mayor are held concurrently with the ballot for councillors. Candidates for the Mayor and Deputy Mayor ballots can only be nominated for one of those two ballots. A candidate for Mayor or Deputy Mayor can stand for one of those positions, but [cannot be elected](#) unless he or she has first been elected as a councillor at the concurrent election of councillors or is a continuing councillor. That last basis for election would not be relevant in Victoria, as its Councils do not have rotating terms as in Tasmania.

The requirement for all councillors to be elected as councillors under the same terms ensures, unlike the practice in Melbourne, that the composition of the whole Council is properly balanced, without some councillors being elected on a different basis from others. Tasmania's concurrent election of Mayor and Deputy Mayor in separate ballots makes it highly likely that the persons elected to those offices will have a generally similar viewpoint, but that state of affairs will depend on the choice of the voters and is not paternalistically imposed on the voters as it is in the Melbourne City Council system.

Voters can see for themselves whether a candidate in their ward is also a candidate for Mayor or Deputy Mayor and take that into account when they vote in the two relevant ballots – both the ward councillor and the Mayor or Deputy Mayor ballot involved.

If a candidate for Mayor or Deputy Mayor lacks sufficient qualities and knowledge of the municipality to be unable to choose a ward to stand in and be reasonably certain that he or she will be elected for that Ward, it is quite likely that he or she would not be elected as Mayor or Deputy Mayor.

Australia's former Prime Minister, John Howard, seemed to recognize that his inability to continue to hold the House of Representatives seat that he had chosen to stand for in 2007 should properly disqualify him for a leadership role in that House, and the resignation of a Party loyalist to cause a by-election to achieve his return to that House was wisely not engineered.

A much earlier Prime Minister, Billy Hughes, took a different course when he sensed the impending likelihood of a failure to be re-elected in his seat, by switching three times to a more secure seat. His skills in that regard, and his electoral support, led him to remain an MHR continuously for over 50 years, in his successive tenure of the divisions of West Sydney, Bendigo, North Sydney and Bradfield.

Yours sincerely,

Geoffrey Goode
President
Proportional Representation Society of Australia (Victoria-Tasmania) Inc.

Mayor of Greater Geelong – Direct Election

Discussion Paper

With additions shown in **red** and deletions shown in ~~blue~~ as recommended by

[Proportional Representation Society of Australia \(Victoria-Tasmania\) Inc.](#)

for providing comments to Local Government Victoria on this paper.

Mayor of Greater Geelong – Direct Election Discussion Paper

Introduction

Bannockburn.

In response to community requests to directly elect the Mayor of the Greater Geelong City Council (Greater Geelong), the Government has agreed that the residents and ratepayers of Greater Geelong should be able to directly elect their Mayor.

How this will be done is subject to community consultation. Written submissions are therefore invited from interested members of the Greater Geelong community, including key stakeholders.

This discussion paper has been prepared to assist people making submissions by identifying key issues and options. It particularly considers two important questions:

- Should only the Mayor be directly elected by voters or should voters directly elect a leadership team comprising the Mayor and a Deputy Mayor?
- Should candidates for Mayor, or Mayor and Deputy Mayor, be allowed to also nominate for ordinary Councillor positions?

Greater Geelong City Council

Greater Geelong covers an area in excess of 1,200 square kilometres and has a population of around 220,000. Approximately 90,000 people work within the municipality. This makes Greater Geelong the second most populous municipality in Victoria and a major centre of business and industry.

The current City Council was established in 1993. It was formed by the amalgamation of the municipalities of Geelong, Geelong West and Newtown, Bellarine, Corio, South Barwon and parts of the municipalities of Barrabool and

The Council has 12 members and, until now, the Mayor has been elected by the Councillors, **from among themselves**, as required by the *Local Government Act 1989 (the Act)*. The current Mayor was elected for one year terms in December 2008 and December 2009 and was re-elected in December 2010 for a two year term that will expire when the Council has its general elections in late 2012.

Why a directly elected Mayor?

Geelong is Victoria's second largest City and the Council is one of the largest in the State. Allowing the voters of Greater Geelong to directly elect their Mayor will recognise the State and Regional significance of the City.

A directly elected Mayor will have a high public profile and clear public endorsement. This allows him or her to provide strong leadership for the Council and the

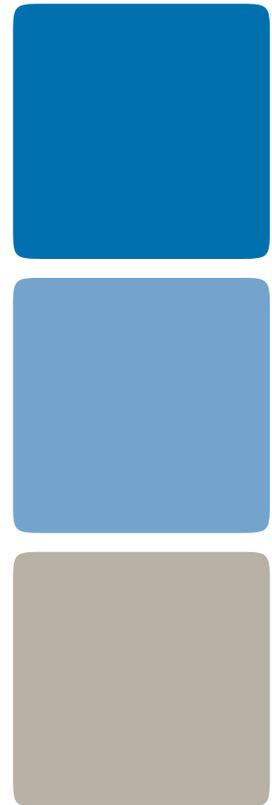
community. A Mayor elected for the full four year term of the Council can also contribute to providing stability of government for the City, **although that could be equally well achieved by amending legislation so that a Mayor to be elected by Councillors would have the same term as the Councillors.**

Matters to consider

Changes must be made to legislation before the Mayor of Greater Geelong can be directly elected. However, there are two particular matters that must be considered before specific legislation can be prepared.

The first issue is whether the voters of Greater Geelong should directly elect only the Mayor or whether Greater Geelong should adopt the Melbourne City Council arrangement, where the Mayor and a Deputy Mayor are directly elected as a team by the voters.

A second issue is whether or not candidates for Mayor or Deputy Mayor should be able to nominate for ordinary Councillor positions or, as in Tasmania, should be required to also nominate and be elected as a Councillor in order to be eligible to be elected as Mayor.. At the Melbourne City Council, a candidate for Lord Mayor or Deputy Lord Mayor cannot nominate for an ordinary Councillor position.



Mayor or leadership team?

Should only the Mayor be directly elected by voters or should voters directly elect a leadership team comprising the Mayor and a Deputy Mayor?

The Act currently requires each Council (other than the Melbourne City Council) to elect one of the Councillors to be the Mayor. The term of office of the Mayor may be one or two years and there is no limit to the number of times that a Councillor can be elected Mayor.

The election of the Mayor occurs at the first meeting after a general election and each year thereafter, or each second year if the Council decides to elect the Mayor for a two year term.

Most Councils also elect a Councillor to be the Deputy Mayor. This is a matter for the Council's discretion, as it is not required by the Act. The Deputy Mayor is generally understood to be the person who the Council will ask to perform the role of the Mayor when the Mayor is unavailable, such as when the Mayor is ill or attending an external function.

The current practice at the Greater Geelong City Council is to elect a Deputy Mayor.

At the Melbourne City Council the Lord Mayor and the Deputy Lord Mayor are elected as a team. This is required by the *City of Melbourne Act 2001*. The way this works is that the candidates nominate in pairs for election as a team and then, in the election, voters fill in a ballot paper which has a single box for each team. The members of the team that wins a majority of votes, after the distribution of preferences (if necessary), become the Lord Mayor and the Deputy Lord Mayor.

The Lord Mayor and Deputy Lord Mayor are both Councillors **ex officio**. They **are expected to** work together to perform the leadership roles for the Council. When the Lord Mayor is unavailable, the Deputy acts as the Lord Mayor.

Arrangements in other Australian States and the Northern Territory vary, but all jurisdictions have at least some municipalities where Mayors are directly elected. In most of these other jurisdictions, voters only directly elect the Mayor and the Councillors elect a Deputy Mayor. The exception is Tasmania, where voters directly elect both the Mayor and a Deputy Mayor **separately** in concurrent elections.

Leadership team - advantages

- If both the Mayor and a Deputy Mayor are directly elected **separately, as in Tasmania**, voters may be regarded as having a greater say in the leadership of the Council.
- A leadership team of two people can work together to guide the business of Council and **might may** be able to represent the Council and the community in other forums and places more effectively.
- In the event that the Mayor is unavailable at any time, the Mayor's duties will be undertaken by the Deputy Mayor, who can be expected to continue the policies of the Mayor.
- If a situation arises where the position of the Mayor becomes vacant, for ill health or any other reason, the Deputy Mayor can step into the role, ensuring that the Council is not left without clear leadership for months until a new Mayor is elected.

Mayor only - advantages

- The concept of directly electing a Mayor, rather than a leadership team, may be more easily understood by voters.
- The Council would still be able to elect one of the Councillors to be Deputy Mayor.
- If no Deputy Mayor is elected, opportunities may arise for other Councillors to gain experience acting as the Mayor from time to time.

Additional considerations

- Having a Deputy Mayor elected as part of the Mayoral team may enhance the authority of the Mayor on Council, **as it effectively gives him an unelected ally on the Council who has had an over-riding incentive to avoid campaigning on any platform different from that of the Mayor, as he or she does not need to gain, and cannot gain, a single vote in his or her own right, but in reality is deemed to be elected solely on the basis of the votes that the Mayor, who will invariably be the more electable candidate with the far more significant role and function, has attracted..** While this may not be a major factor on a day to day basis, in the event of any significant difference of opinion among the Councillors it may increase the likelihood that the position of the leadership team will be supported, **as it is a clearly undemocratic weighting of the votes on the Council towards that ,team" and away from the individually elected Councillors.**
- It should also be noted that directly electing either the Mayor, or the Mayor and a Deputy Mayor, is likely to result in changes to the number of ordinary Councillors. The Act limits the total number of Councillors to between five and 12 and Greater Geelong already has 12 Councillors.
- Directly electing the Mayor, or

the Mayor and Deputy Mayor, may require changes to the respective rates of remuneration to reflect any additional responsibilities.

Single or dual nominations?

Should candidates for Mayor or Deputy Mayor, be allowed to also nominate for ordinary Councillor positions?

The arrangement at the Melbourne City Council is that people who nominate for the positions of Lord Mayor or Deputy

Lord Mayor cannot also nominate for ordinary Councillor positions.

This means that prospective candidates ~~need to choose~~ are unnecessarily faced with the dilemma of which position to nominate for in a Council election.

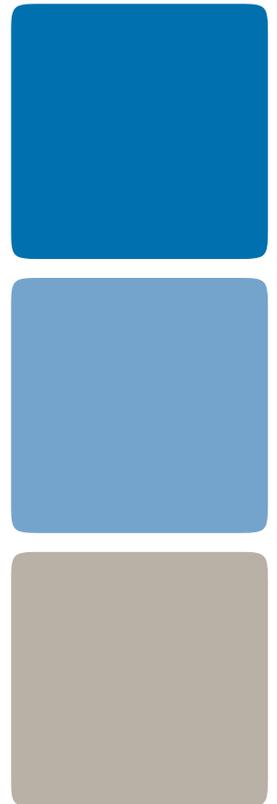
Arrangements vary in other jurisdictions. In New South Wales, Western Australia, Tasmania and the Northern Territory dual nominations are allowed. In Queensland and South Australia candidates for Mayor may not nominate for ordinary Councillor positions.

Single nomination only - advantages

- Allowing candidates to stand for two concurrent positions could lead to confusion on the part of electors. Voters may be uncertain about which position the candidate is really committed to and this may affect the way they vote, **but that does not occur at all in Tasmania, as candidates for Mayor and Deputy Mayor must all not only stand for election as Councillors (the ability of continuing Councillors to stand is not relevant in Victoria, as it no longer has rotating terms), but must also be elected as**

Councillors if they are to be eligible to continue in the count for the leadership positions. .

- Requiring candidates to choose a Mayoral or Councillor position might help avoid large fields of candidates on Mayoral ballot papers, which would assist in limiting scope for voter errors that can invalidate a person's vote, **but that has not been a problem in Tasmania.**
- It **could be said that** is preferable that the Mayor is not seen to be closely aligned with a particular ward where he or she has also nominated as Councillor, **but this has not been a problem in Victoria's history of more than a century of having Mayors identified with particular wards, nor has the analogous situation of Premiers or Prime Ministers identified with particular electorates been a problem. The Mayor will normally live in a particular ward, and people concerned about such parochial distractions will no doubt worry about that anyway.** It is important for the City that the Mayor is clearly seen to represent the whole municipality.
- Having a clear separation between Mayor and Councillor elections **could** avoid situations where failed candidates for the Mayor's position are elected as Councillors and see their role as one of opposition to the elected Mayor, **but that is not a problem in Tasmania, as all Mayoral candidates have a much greater likelihood of being elected as a Councillor than as Mayor or Deputy. Councils have a relatively small number of members and need to be able to work together to provide effective local government, but their main role is to represent electors.**



Dual nominations - advantages

- Allowing dual nominations may allow voters to choose whether to support a particular candidate for a Mayoral position or for a position as an ordinary Councillor, **but the Tasmanian arrangement, where candidates for Mayoral positions must also be candidates for Councillor positions, and election as a Councillor is a prerequisite for being elected for a Mayoral position, gives both voters and candidates much greater choice and flexibility, without being in the least confusing, as Tasmanian experience shows.**
- Preventing candidates from nominating for both Mayor and Councillor positions might be seen as placing an unnecessary restriction on candidates who may be willing to serve the community in either role **or, more sensibly and democratically, both roles.**
- If candidates for Mayor cannot also nominate as Councillors some well qualified people may be excluded from becoming Councillors.

Additional consideration

- If candidates can nominate for both Mayor and Councillor elections, there **should, as in Tasmania, be no ~~may be~~** practical difficulties in determining election results. ~~Where Councillors are elected in single member wards the normal process for filling a vacancy is to conduct a by-election and, where Councillors are elected in multi-member wards, vacancies are normally filled by a countback process.~~ The ~~alternative appears to be to delay the~~ counting of votes in any wards where candidates have also nominated for Mayor or Deputy Mayor **must be undertaken after** ~~until~~ the result of the Mayoral elections

~~have~~ **has** been determined. The successful candidates for Mayor or Deputy Mayor could then be excluded from the ward counts.

Submissions

Interested persons are invited to make submissions on the direct election of the Mayor of Greater Geelong. Submitters are particularly encouraged to answer the two questions discussed in this paper:

- Should only the Mayor be directly elected by voters or should voters directly elect a leadership team comprising the Mayor and a Deputy Mayor?
- Should candidates for Mayor, or Mayor and Deputy Mayor, be allowed to also nominate for ordinary Councillor positions?

An electronic template for submitters, along

with copies of this paper, is available on-line at www.localgovernment.vic.gov.au.

Written submissions must be received by 16 May 2011.

Submissions should be sent to the Executive Director, Local Government Victoria

- by email to local.government@dpcd.vic.gov.au
- by post to GPO Box 2392, Melbourne, 3001.

Published by Local Government Victoria
55 Collins Street, Melbourne Victoria 3000
Telephone: (03) 9651 7026

March 2011

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