

20 February 2019

Hon Martin Aldridge, MLC
Member for Agricultural
PO Box 255
BINDOON WA 6502

Re: Electoral reform in Western Australia

Dear Mr Aldridge,

As individuals with expertise in democratic practice, we write to you in our own capacities to raise the issue of electoral reform in Western Australia. As it stands, the *Electoral Act 1907* does not ensure the crucial democratic principles of fairness, integrity, and transparency in the electoral process in this State. It is in urgent need of reform. There are a range of matters calling for attention, including the voting system (especially for the WA Legislative Council); the conduct of WA elections; the involvement of candidates and political parties in postal voting; and the timing and threshold for disclosing political donations.

One of the most effective ways of identifying the extent of the problems, and proposing solutions, would be to hold a parliamentary inquiry into the *Electoral Act* by establishing a joint select committee of the Parliament of Western Australia. This inquiry should be initiated as soon as possible, given the range of issues to cover, and the likelihood that legislative proposals will emerge. Ideally, any amendments to the *Electoral Act* would be in place at least one year before the next election, scheduled for March 2021.

The following is a list of four points that need addressing.

1. **The Legislative Council of Western Australia has the most extreme malapportionment of any State or Territory house of parliament in Australia.** At the 2017 State election, 68,480 people were enrolled in the Mining and Pastoral region, electing 6 MLCs. At the same election, 409,325 people were enrolled in the South Metropolitan Region, electing the same number of Legislative Council Members. In other words, 1 vote in the Mining and Pastoral region was worth almost 6 votes in the South Metropolitan region. All three of the Perth Metropolitan regions experience a similar imbalance when compared to the Mining and Pastoral region, and to a lesser extent the Agricultural region, where the ratio is around 4:1. This distorts electoral outcomes, and fails the democratic fairness test as it denies Western Australians an equal say in how their State is governed. No other State electoral system allows such malapportionment. And the problem is getting worse every election, as the region of Mining and Pastoral declines in population while the Perth Metropolitan and South-West regions increase. There is no in-built brake on this trend, and so it will persist into perpetuity unless it is arrested. Enrolments at 31 December 2018 already show the Mining & Pastoral: South Metropolitan vote weighting ratio has risen since March 2017 to 6.25:1.

1. **The voting system for the WA Legislative Council makes it difficult for voters to control preferences, which leads to “preference harvesting” and the potential to manipulate the outcomes of elections.** This was a problem recognised by the Commonwealth parliament in 2016, following the election of Senators with a primary vote as low as 0.51% of the vote in 2013. In Western Australia, this problem is made worse by the lack of any “savings provisions”. In simple terms this means that any single error by an elector in numbering their “below the line” sequences leads to the vote being declared informal, further discouraging the public from preferencing candidates of their choice. While there were no glaring examples of MPs being elected from tiny numbers of first preferences at the 2017 State election, this is only thanks to good fortune rather than to effective reform measures. Action needs to be taken to put preferences back into the hands of voters, so that they can more easily choose where their vote ends up. Recent reforms to the voting process for the Australian Senate, which made it possible for voters to indicate their preferences between parties above the line on an optional basis, thereby making voting easier and also undercutting any preference harvesting strategies, offer an obvious model for consideration.
2. **Involvement of candidates and political parties in WA’s postal voting applications creates an obvious conflict of interest.** Currently, candidates and political parties send postal vote applications to many thousands of voters. Those who respond usually send these applications to the candidate or party concerned, who are required to forward them on to the Western Australian Electoral Commission (WAEC). One of the biggest source of complaints to the WAEC comes from voters who had applied for postal votes but had not received them, sometimes several weeks later. Searches on the Commission’s voter databases then fail to find evidence that the application has been lodged. While there is no evidence that political parties deliberately withheld postal vote applications, there is clearly *potential* for this to occur. Even such potential interference in the voting process should not be acceptable. There is no place for candidates or political parties in organising applications for any particular vote type; this should be left to the WAEC, which is an independent statutory body.
3. **The timing and thresholds for disclosure of political donations in Western Australia are completely inadequate.** Currently political parties have until 30 November of a given year to lodge annual returns detailing donations of over \$2300, made prior to 30 June of that year. Donations in the second half of a year are often not disclosed until 30 November the following year. The public cannot access this information until 28 December at the earliest. There are separate provisions relating to election-related gifts, with disclosure not being required until 15 weeks after polling day. Both the donation and gift provisions are clearly unacceptable in a modern democracy, where it is possible to publish material with ease in a matter of hours. Only “ongoing” or “real time” disclosure will deliver real transparency in our political process; this would permit the public, the media or any person wishing to scrutinise donations, the opportunity to do so at the time, rather than much later when votes have been cast or a controversy has died down.

A parliamentary inquiry into the WA *Electoral Act 1907*, established with clear Terms of Reference, would enable the Parliament of Western Australia to consider these and other areas for reform, and help the State move towards fairness, integrity and transparency in our political and electoral systems. Anything less is unacceptable for Western Australians.

Yours Sincerely,

Associate Professor Martin Drum
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Professor John Phillimore
Curtin University

Professor Ben Reilly
The University of Western Australia

Professor Kanishka Jayasuriya
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