

Part 3: Conclusion

CHAPTER 15: ISSUES FOR DISCUSSION AND COMMENT

This chapter suggests an approach to considering the issues and possible options for reforming Australia's electoral system presented in prior chapters and sets out the questions that readers might wish to consider.

- 15.1 The purpose of the Green Paper process is to encourage public debate about options for improving and modernising Australia's electoral system. The first Green Paper, *Electoral Reform Green Paper - Donations, Funding and Expenditure*, invited comments on major issues and options relevant to Australia's electoral funding and disclosure requirements. This second Green Paper has discussed a broad range of issues relating to Australia's electoral architecture and key elements of the electoral process, and identified a range of possible options for reform.
- 15.2 Given the variety of issues and options canvassed in this paper, the purposes of this concluding chapter are to:
 - suggest an approach to considering what, if any, reforms might be appropriate; and
 - to set out the questions that readers might wish to consider.
- 15.3 This paper has argued that the key challenge for governments is to preserve the Australian electoral system's key strengths and stability while striving for greater improvements to the system to ensure that it continues to meet the needs of the changing electoral environment. Chapter 1 outlined some of the important changes in Australia's electoral environment: demographic changes, technological developments, and opportunities for harmonisation between the Commonwealth, the states and the territories. The options for reform presented in this Green Paper can be taken as a starting point in considering whether any reforms are required to ensure that Australia is equipped to meet these challenges.
- 15.4 It may be useful to have some principles in mind against which to evaluate whether Australia is equipped to meet the challenges identified in this paper and to evaluate any required options for reform. To this end, chapter 2 proposed a set of 11 principles that might be regarded as the basis for an electoral system for Australia, namely, representation, responsiveness, universality, neutrality, transparency in electoral administration, integrity, the rule of law, civic culture, an open political environment, effectiveness and efficiency, and flexibility. While these have been drawn from standards widely accepted internationally, readers may wish to consider whether there are alternative principles that should be taken into account in analysing the Australian electoral system.
- 15.5 Two further aspects of the process of considering possible options for reform should be noted. Firstly, any changes to one part of the electoral system may have impacts on other parts of the system. Regard therefore needs to be had to any such impacts, and how any changes might be combined in a cohesive way with existing parts of the electoral system, or with other proposed reforms. Secondly, given limited resources, the costs and benefits of possible reforms need to be weighed against each other. While limited resources may present a challenge, they can also provide an opportunity for framing innovative solutions. For example, as noted in chapter 2, some reform options may result in savings which could be directed to other electoral reforms,

while other reform options might entail consideration of how best to utilise existing resources to achieve particular objectives.

- 15.6 The Australian Government welcomes comments on any of the matters raised in this paper. Readers are particularly encouraged to think holistically and consider what package/s of reforms, if any, might meet the challenges, and take advantage of the opportunities, facing Australia's electoral system.
- 15.7 In preparing comments, readers may wish to consider the discussion points listed at the end of chapters 2 to 14, extracted here for ease of reference. While comments on all discussion points are welcome, readers might also like to consider which five areas they believe are of highest priority for reform.

Chapter 2: Standards, qualities and expectations

- 2(a) Principles that might be regarded as a basis for an electoral system for Australia are representation, responsiveness, universality, neutrality, transparency in electoral administration, integrity, the rule of law, civic culture, an open political environment, effectiveness and efficiency, and flexibility. Which of these principles are the most important to you, and why?
- 2(b) Are there any other principles that you consider to be key principles for an Australian electoral system?

Chapter 3: The legal framework for elections

- 3(a) Given the inherent challenges of achieving and maintaining harmonisation in a federal system, which areas of harmonisation should be given priority attention?
- 3(b) How prescriptive should our electoral laws be?
- 3(c) How flexible should our electoral laws be to adapt to the changing electoral environment?
- 3(d) What is the best way to ensure that our electoral laws are easily understood by participants in the electoral process?

Chapter 4: The franchise

- 4(a) Are the current arrangements for the franchise appropriate for modern Australia?
- 4(b) Should any categories of non-citizens have the right to vote in Australian elections?
- 4(c) To what extent should Australian citizens living overseas be permitted to vote in Australian elections?
- 4(d) Should the voting age and/or enrolment age for Australian elections be lowered?
- 4(e) Should the current exclusions from the franchise be maintained, amended or abolished, in particular for:
- persons serving a prison sentence of three years or more?
 - persons of unsound mind?
- 4(f) Are there any other aspects of the franchise that you consider should be reformed?
- 4(g) Should the franchise be uniform across Australia?

Chapter 5: Representation and voting systems

- 5(a) Do the current voting systems for the House of Representatives and the Senate offer an appropriate balance between representation and responsiveness? If not, what changes should be made to the voting systems for the House of Representatives and/or the Senate?
- 5(b) Should optional preferential voting be introduced for the House of Representatives?
- 5(c) For the Senate, should preferential above-the-line voting be introduced? Should optional preferential voting below the line be introduced?
- 5(d) Would there be benefits in greater harmonisation of voting systems?
- 5(e) Are the current criteria for determining formality of votes in federal elections appropriate? Should they be varied to remove obstacles to casting a valid vote?
- 5(f) What strategies do you think could reduce the level of unintended informal voting?
- 5(g) Would there be benefits in greater harmonisation of formality rules for federal, state and territory elections?
- 5(h) Are the current arrangements governing redistributions satisfactory? Should redistributions be conducted according to a fixed timetable, or a 'fairness' criterion?
- 5(i) Should any changes be considered to the arrangements governing representation of the states and territories in the House of Representatives and the Senate?
- 5(j) What changes, if any, should be considered to the current composition of electoral divisions?
- 5(k) Should any changes be considered to address the issue of members or Senators retiring before the end of their terms?

Chapter 6: Electoral management bodies

- 6(a) Is the AEC sufficiently independent and transparent in its operations?
- 6(b) Do the general administrative, oversight and accountability arrangements that apply to the AEC in common with other statutory agencies have practical implications for the effective independence of its electoral administration activities?
- 6(c) Are there functions that the AEC should be performing, which it is not?
- 6(d) Is the AEC performing functions that should be performed by another body?
 - If so, should any particular function be split between jurisdictions or carried out by a separate body?
- 6(e) Is there a more effective organisational structure of the AEC?
- 6(f) Are the accountability mechanisms that apply to the AEC sufficient to ensure that decisions relating to elections and electoral matters are independent and impartial?
- 6(g) Are there any aspects of existing accountability mechanisms that might operate so as to be contrary to the objective of an independent electoral administration?
 - Should the Electoral Act include a provision specifying the independence of the AEC, such as section 10 of the Tasmanian *Electoral Act 2004*?
 - Should the Electoral Act include a provision allowing JSCEM to scrutinise the proposed budgetary allocation for the AEC, similar to the arrangements in place for the Australian National Audit Office?

- 6(h) In what ways could the AEC work more closely with state and territory electoral bodies to improve cooperation and enhance processes?

Chapter 7: Enrolment and participation

- 7(a) How can enrolment processes best ensure maximum participation in Australia's elections?
- 7(b) Are there any changes that you think should be introduced to enrolment processes, such as:
- automatic enrolment?
 - automatic update of enrolment details?
 - online enrolment?
 - online update of enrolment details?
- 7(c) If automatic or online enrolment and/or updating were introduced, what processes do you think would ensure the integrity of the electoral roll?
- 7(d) Should the legislation governing enrolment be designed to guide the AEC on the basis of principles, rather than prescribing the process steps for enrolment?
- 7(e) What changes could be made to the proof of identity requirements to improve the enrolment process, while continuing to protect the integrity of the roll?
- 7(f) What changes (if any) should be made to the residence requirements for enrolment?
- 7(g) What changes (if any) should be made to the special enrolment arrangements for silent electors, homeless persons and youth?
- 7(h) What 'close of rolls' period do you think is appropriate?
- Should the roll close date be set later in the election period?
 - Should enrolment on polling day be permitted?
- 7(i) What options are there for greater harmonisation of enrolment requirements and processes across the Commonwealth, states and territories?
- 7(j) Should there be further limitations placed on access to information on the electoral roll? If so, what limits would you suggest?

Chapter 8: Registration of parties, and candidate nominations

- 8(a) Is the current system for registration of political parties appropriate for Australia's contemporary conditions?
- 8(b) Are there any changes that you think should be introduced to party registration arrangements, such as:
- requirements regarding the conduct or organisation of political parties, such as requiring them to become legal entities?
 - different rules for party names?
 - rules to address 'party-hopping' for registration?
- 8(c) What options are there for greater harmonisation of party registration arrangements across the Commonwealth, states and territories?
- 8(d) Is the current system for candidate nominations appropriate?
- 8(e) Are there any changes that you think should be introduced to candidate nomination arrangements, such as different nomination requirements?

- 8(f) Noting the requirement for a referendum, are there any amendments that you think should be made to section 44 of the Australian Constitution? Alternatively, are there any administrative solutions that you think could be introduced to support compliance with section 44?
- 8(g) What options are there for e-business solutions to improve party registration and candidate nomination systems?

Chapter 9: Education for electoral participation

- 9(a) Do you think that any changes should be made to existing electoral education programs?
 - If so, what programs do you think should be in place to effectively and efficiently improve electoral participation in Australia?
- 9(b) Should electoral education be mandatory in all Australian schools?
- 9(c) Do you think that any new electoral education strategies should be introduced to improve the electoral participation of particular groups, such as:
 - youth?
 - Indigenous Australians?
 - migrant citizens?
 - persons experiencing homelessness?
 If so, what strategies do you think should be developed?
- 9(e) Are there any specific groups not discussed in this chapter who you think would benefit from better electoral education?

Chapter 10: The campaign

- 10(a) To what extent should the government seek to regulate the use of new media, including the internet, for campaign purposes, or encourage the development of a voluntary code of conduct?
 - Are there any specific emerging campaign practices which you would like to see tackled?
- 10(b) Should any additional measures be put in place to govern the use of public resources for campaign purposes?
 - If so, what measures do you think might be appropriate?
- 10(c) Are reforms needed to address the shift towards 'continuous' campaigning?
- 10(d) Do you believe the current media blackout arrangements should be changed in any way?
- 10(e) Should 'truth in advertising' laws be introduced?
 - If so, what form should such laws take?
- 10(f) Are there any changes that you think should be introduced to the arrangements governing the neutrality of the polling booth?
- 10(g) Should any changes be made to the arrangements governing how-to-vote cards?
- 10(h) Do you favour any particular options for greater harmonisation of campaign regulations across the Commonwealth, states and territories – including possible use of national voluntary or regulatory codes of conduct?

Chapter 11: Polling

- 11(a) Should any actions be taken in response to the rise in early voting?
- 11(b) What changes, if any, are needed to the current postal vote processes for federal elections?
- 11(c) Should electronic voting be utilised to a greater extent in Australia?
 - If so, what form of electronic voting should be used?
- 11(d) Are additional mechanisms required to reduce the possibility for multiple voting?
 - If so, what mechanism/s should be introduced?
 - Do you think the current rules surrounding the casting of provisional votes should be changed? If so, how?
- 11(e) Should a requirement for voters to provide identification on election day be introduced?
 - If so, what form/s of identification should be required?
- 11(f) Do you have any suggestions for the future location of polling places within Australia?
 - In particular, do you have any suggestions about the location of polling places for homeless persons or those in Indigenous communities?
- 11(g) Do you think compulsory voting should continue in Australia?
- 11(h) What areas of the current polling arrangements do you think would particularly benefit from harmonisation between the Commonwealth, states and territories?
 - Do you think it is appropriate for federal and state or territory elections to be held on the same day?

Chapter 12: Scrutiny of ballots

- 12(a) Are there any measures that could be taken to improve the process by which declaration votes are counted?
 - In particular, should pre-poll votes cast in an elector's home division be treated as ordinary votes for the purposes of the count?
- 12(b) Should the National Tally Room continue to operate for federal elections?
- 12(c) Which forms of electronic vote counting should be used at federal elections?
- 12(d) Are there any additional measures or initiatives that could improve decision-making as to the formality of votes?
- 12(e) Should recounts be automatically conducted in the case of close election results?

Chapter 13: Dispute Resolution

- 13(a) Do you think the current role, practices and procedures of the Court of Disputed Returns for petitioners are appropriate?
 - If not, which individual aspects of the dispute resolution process require reform?

Chapter 14: Compliance and enforcement

- 14(a) Is the existing compliance and enforcement regime in the Electoral Act effective?
 - If not, what changes should be made?
- 14(b) Should the AEC have a greater role in enforcing compliance with the Electoral Act?
- 14(c) Are there particular areas of the compliance and enforcement arrangements that you think would benefit from greater harmonisation?