

Submission by the Australian Collaboration in response to

*Strengthening Australia's Democracy  
The 2<sup>nd</sup> Green Paper on Electoral Reform*

**THE AUSTRALIAN COLLABORATION**

The Australian Collaboration is a consortium of peak national community organisations representing social, cultural and environmental constituencies and interests. The main activities of the Collaboration are to act as a forum for the exchange of ideas and information, to carry out research, to publish essays and books and to provide educational materials on important societal issues. The Collaboration is an independent network. It has no political links and does not support any political party. Its members are:

- The Australian Conservation Foundation
- The Australian Council of Social Service
- The Australian Council for International Development
- Choice: The Australian Consumers Association
- The Federation of Ethnic Community Councils of Australia
- The National Council of Churches in Australia and its Social Justice Network
- The Trust for Young Australians

The Collaboration's recommendations are listed under each chapter heading below. The views expressed in this submission are not necessarily the views of individual Collaboration member organizations.

**CHAPTER 2**

**Standards, Qualities and Expectations**

The Australian Collaboration gives its strong support to the principles set down for the Australian electoral system. It suggests, however, that there should be a small adjustment to the current principle "The Rule of Law" and that there should be a new principle; "Accountability and transparency".

The Australian Collaboration proposes that these two principles should be expressed in the following way;

**The Rule of Law**

Electoral processes should be governed by clear and unambiguous laws and procedures. They should conform to the principle of the rule of law as it is expressed in the Australian Constitution.

### **Accountability and transparency**

Electoral processes should be open and transparent and able to be appropriately scrutinised and challenged by parties, candidates and voters. There should be genuine opportunities for complaints about the electoral process to be lodged and dealt with in an even-handed and transparent way.

## **CHAPTER 3**

### **The Legal Framework for Elections**

While the Australian Collaboration supports some harmonisation between the federal government, state governments and the territories, it agrees with the argument in the Green Paper that harmonisation should not be pursued merely for its own sake. It is useful to have different parts of the system able to carry out experiments which, if successful, can be widely adopted. Consistency should not be at the expense of best practice [3.19].

The Australian Collaboration believes that electoral legislation should be as precise as possible leaving as little ambiguity as possible to avoid the misuse of loosely written legislation by governments and political parties. This does not imply any restriction on the regular review of electoral practices. [3.24].

The Australian Collaboration strongly supports the rewriting of current electoral legislation in plain language [3.25].

## **CHAPTER 4**

### **The Franchise**

The Australian Collaboration believes that it is of fundamental importance that a major effort should be made should be made to reduce the large difference between the number of people who are eligible to vote and the proportion who do in fact vote [4.19]. It also makes the following recommendations related to the franchise:

- Citizenship remains a valid basis for determining who should be allowed to vote [4.35];
- Since citizenship is now the qualification for enrolment the electoral act should be amended to remove the references to the eligibility of British subjects to remain enrolled and to vote in federal elections - as recommended by Mr Daryl Melham MP, Chair of the JSCEM [4.32];
- There should be serious effort to reduce the complexity of enrolment procedures for overseas Australians [4.38];

- The voting age for enrolment for young people should not be lowered below 18 years. Every effort should, however, be made to educate young people about the electoral system to prepare them for voting when they do reach the age of 18 [4.43];
- The franchise for prisoners should be extended; prisoners serving a sentence of no more than 5 years should be entitled to vote [4.46].

## CHAPTER 5

### Representation and Voting Systems

#### *The House of Representatives*

The Australian Collaboration does not support any change to the voting system in the House of Representatives since it believes that there is great value in the strong government achieved by the current voting system for this house [5.4].

#### *The Senate*

The Australian Collaboration believes that the overriding goal for the Senate should be to strengthen its role as a house of review. It supports the retention of the present voting system for the Senate since it is through the further development of the current voting system that this goal is most likely to be achieved.

The Australian Collaboration does, however, believe that significant changes to the ballot paper for the Senate are needed to make it possible for voters to express their preferences more clearly. The Australian Collaboration's preferred option is the one proposed by the JSCEM; that is, to give voters the choice of marking more than one preference above the line. This approach would "retain group voting tickets to distribute preferences if an elector marks a single preference but, if more than one preference were made, a vote would exhaust at the last preference expressed" [5.75]. The Collaboration does not believe that such a system would lead to any increase in informal ballot papers.

The Collaboration also believes that Senator Bob Brown's alternative proposal should be carefully examined.

The Collaboration believes that these ballot paper changes are of great importance.

The Australian Collaboration supports a low threshold system for counting votes [5.64]. Its aim should be to limit the influence and election of a proliferation of single-issue candidates but any such changes should have no negative effects on minor parties. The Collaboration does not support single member constituencies [5.67] since such a system would likely disadvantage minor parties.

### ***Other matters***

Since studies have shown that 30 percent of informal votes at the 2004 and 2007 elections were due to the fact that a ballot paper was numbered with a “1” only, any changes to the voting system should ensure that such a vote in the future becomes a valid vote for the upper or lower house [5.68].

The Australian Collaboration recommends that the question of dedicated electorates for indigenous Australians be further explored and discussed with representative indigenous groups and leaders. It notes that an entrenched and guaranteed indigenous representation in Federal parliament was a proposal canvassed at the 2020 Summit, 2008 [5.105].

The Australian Collaboration believes that where a Senate casual vacancy has arisen due to the death or resignation of a Senator during her or his electoral term, the replacement Senator should be required to face the voters at the next election.

## **CHAPTER 6**

### **Electoral Management Bodies**

The Australian Collaboration strongly believes that the Australian Electoral Commission should be given the greatest independence possible and that it should report to the Parliament, not the Executive, as does the Auditor-General [6.21]. It also supports further extensions of the powers of the Commission as discussed in the Green Paper [6.24].

The Australian Collaboration does not believe that any of the current functions of the Electoral Commission should be distributed to other agencies or to the States. [6.27].

The Australian Collaboration supports the proposal that budget estimates should be prepared by the JSCEM as the responsible parliamentary committee and approved by Parliament, as is currently the process for the National Audit Office [6.37].

The Australian Collaboration believes that persons who have been members of a political party within the previous ten years should be excluded from appointment to the Commission, a common arrangement in other Australian jurisdictions [6.45].

The Australian Collaboration believes that appointments to the AEC should not be the prerogative of the government of the day and that an independent system of appointments is essential. One appointment arrangement worthy of further investigation is the system adopted by the UK House of Commons [see 6.46]. In the UK the speaker convenes a cross-party committee and appointments are made in consultation with all parties in the House.

The Australian Collaboration believes that the terms of appointment for electoral commissioners should be increased from five to seven or eight years [6.47].

## **CHAPTER 7**

### **Enrolment and Participation**

The Australian Collaboration believes that it is of prime importance to reduce the numbers of citizens who are eligible voters but are not enrolled (reported in the Green Paper as numbering 1,232,935 citizens at June 2009)] [7.22].

It believes that the electoral commission should move as quickly as possible to automatic enrolment. Young people when they reach the age of 18 should be automatically enrolled [7.38]. The Collaboration has noted the JSCEM finding that many young people do not take any steps to enrol because they believe they are automatically enrolled.

There should also be an automatic update of voters' enrolments following an elector's change of address [7.47].

There seems little question that the necessary procedures for automatic enrolment are now available. Automatic enrolment is practised in other countries.

While automatic enrolment procedures are being introduced, every attempt should be made to simplify enrolment processes [7.67],

The Australian Collaboration believes that the JSCEM and the Electoral Commission should review the minimum time requirements for residency to reduce the voting problems they cause for young and homeless people [7.73].

The Australian Collaboration believes that the date of the closure of the roll should be as late as possible. Enrolment should be possible up to a week before the date of an election [7.87].

## **CHAPTER 8**

### **Registration of Parties and Candidate Nominations**

The Australian Collaboration has no comments or recommendations.

## **CHAPTER 9**

### **Education for Electoral Participation**

The Australian Collaboration supports all measures that could be reasonably taken to improve education for electoral participation and civic engagement.

The Australian Collaboration believes that electoral education should be mandatory in all secondary schools.

## **CHAPTER 10**

### **The Campaign**

The Australian Collaboration strongly supports the principle that rules governing the campaign should apply equally to all parties and candidates.

The Australian Collaboration believes political candidates and their agents should be required to disclose their party membership or professional party positions when making any contributions to media, especially new electronic media [10.32].

The Australian Collaboration supports a single national regulatory code for campaign activities [10.81] such as the use of new media, use of public resources for campaigns, the length of the campaign period, media blackouts, clarity in the operation of electoral advertising laws, truth in advertising, polling booth neutrality, and how-to-vote cards. Inconsistency of regulation can cause two problems. It can, firstly, cause confusion for candidates and their agents leading to possible breaches of electoral law. It can, secondly, cause confusion for voters expecting that the same arrangements apply in different types of elections [10.82].

## **CHAPTER 11**

### **Polling**

The Australian Collaboration supports the recommendations of the JSCEM on improving accessibility of the postal vote [11.23].

The Australian Collaboration believes that all postal votes should be returned directly to the AEC. The forwarding of postal votes via political candidates should be banned [11.25].

The Australian Collaboration strongly supports the retention of compulsory voting (compulsory attendance at polling booths) as a highly valued feature of Australian elections. It has led to high voter turnout and thus, to significant participation of Australian people in democratic elections [11.71]. Compulsory voting also avoids the need for parties to devote massive resources to ensuring voter turnout (and thus by implication for demands for large extensions of campaign finances). The loss of compulsory voting would also be likely to redirect resources and energy away from debating of issues.

## **CHAPTER 12**

### **Scrutiny of Ballots**

The Australian Collaboration supports the JSCEM recommendation that automatic recounts be undertaken for all elections in which the margin of votes, on the initial count, is less than 100 votes [12.49].

The Australian Collaboration does not support any change to touch-screen voting or other electronic voting systems until there is a well designed and well tested process for external scrutineering to maintain voting secrecy and to ensure the accurate recording of votes.

## **CHAPTER 13**

### **Dispute Resolution**

The Australian Collaboration has no comments or recommendations.

## **CHAPTER 14**

### **Compliance and Enforcement**

The Australian Collaboration has no comments or recommendations.