



# MELBOURNE SOUTH YARRA RESIDENTS GROUP INC.

*Established by the residents of South Yarra in 1969*

## **SUBMISSION TO STATE GOVERNMENT VICTORIA REVIEW OF LOCAL GOVERNMENT ACT 1989 AND CITY OF MELBOURNE ACT 2001 BY THE MELBOURNE SOUTH YARRA RESIDENTS GROUP INC**

### **URGENT ACTION REQUIRED BEFORE NEXT COUNCIL ELECTION**

The Melbourne South Yarra Residents Group Inc (**MSYRG**) commends the Andrews government for undertaking a review of the Local Government Act 1989 (**LGA**) and City of Melbourne Act 2001 (**CMA**), as announced by Minister Hutchins on 25 August 2015.

The need to deal with the many deficiencies in this legislation has been well recognised for years and most recently by the Georgiou Review (2014) and report of the Electoral Regulation Research Network "Melbourne Democracy - Marvellous? (2015).

However, the greatest and most immediate concern of the MSYRG is the process by which the Lord Mayor and councillors of the City of Melbourne are elected under the CMA and the adverse impact this has not only upon the way in which council functions but upon the reputation of the City of Melbourne. These issues are so serious that they require legislation to be enacted before the next council elections in November 2016.

**THE 2012 CITY OF MELBOURNE ELECTION MUST NOT BE REPEATED.**

This course of action would not affect and should not interfere with the broader review being undertaken as by taking a few simple steps it will be possible to correct the most serious of the election practices which impact the City of Melbourne at present and must be changed before they are repeated in 2016.

### **ELECTION ISSUES REQUIRING URGENT ATTENTION**

The CMA and LGA permitted the following to occur in 2012.

1. A so called "team" comprising those standing for Lord Mayor, Deputy Lord Mayor and three council positions put themselves up as a "ticket".
2. The outcome of the election was largely determined by the gerrymander given to business having two votes to residents one, the "deeming" rights for corporations and the 60% of constituents who were offshore or interstate.
3. The "Doyle team" raised donations towards their election campaign of between \$400,000 and \$500,000, chiefly from property developers and parties engaged in hospitality/gaming, transport and other businesses. This was seven times more than that raised by any other candidate.
4. The "Doyle team" refused to disclose details of these donations until after the election.

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5. On many issues those candidates vote as a bloc when decisions are made by Council and as a consequence there is no genuine discussion and their views usually prevail.
6. On 12 occasions during the current term all five of these councillors have had to declare a conflict of interest and abstain from voting on generally important (often planning) deliberations by council as a result of which there is then no quorum.
7. As non-residents and non-ratepayers are entitled to vote, their support and donations are sought by candidates as a consequence of which they have a disproportionate and unjustifiable influence.

The consequences of the above legislation and conduct are as follows.

8. The power of the "Doyle team" to affect decisions greatly enhances their ability to raise donations towards their election campaign.
9. Such donations by businesses that benefit from council decisions give rise at the very least to the inference of corruption as has been so clearly illustrated by ICAC in New South Wales.
10. The gerrymander giving two votes to businesses as opposed to one to residents particularly when the two votes operate on a "deeming" basis is unrepresentative, unjustified and disadvantages residents.
11. The bloc vote in Council diminishes proper deliberation and debate of issues and prevents or restricts the proper and democratic performance of council's obligations.
12. The fact that five councillors on many occasions are unable to vote because of a conflict and the resulting lack of a quorum prevents other councillors from voting and diminishes and impedes the proper decision making processes of council.
13. The effect of such a "ticket" and the consequential "bloc" voting reduces the likelihood of competent candidates standing and remaining in council because of the inability to play an effective role.
14. The cost to candidates, City of Melbourne and State of Victoria is substantially increased because of the following.
  - (a) Without wards the number of constituents including the non-residents and non-ratepayers is three times greater than any other Victorian electorate.
  - (b) The "deeming" provisions for corporations and resulting processes.
  - (c) The difficulty of the Victorian Electoral Commission determining the eligibility of corporations and others to vote.
15. Doyle, his deputy and "team" can stand again in November 2016 and if elected would have this "control" for 12 years.
16. The taint of corruption and bad governance will continue to have a serious impact on the reputation of the City of Melbourne and State of Victoria.

## **SIMPLE SOLUTIONS TO THESE URGENT PROBLEMS**

17. Repeal the whole of part 3 of the CMA dealing with elections and substitute the equivalent part of the LGA (we understand that the repeal of these CMA provisions would achieve this automatically). This would have the following effect.
  - (a) Only residents and ratepayers would have the automatic right to vote.
  - (b) Corporations that are occupiers and pay rates may apply to vote and, if their application is successful, are entitled to have one vote.
  - (c) Candidates for council must be either residents or ratepayers of the City of Melbourne for at least two years.
  - (d) These eligibility requirements will be consistent throughout Victoria and assist in achieving a democratic and equitable outcome.

<b>BRING CITY OF MELBOURNE INTO LINE WITH THE REST OF VICTORIA.</b>
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18. Pass legislation to give the Victorian Electoral Commission the statutory (rather than contractual as at present) obligation and power to supervise the electoral role and election processes.
19. Substantially amend the completely inadequate division 9 of the LGA to strengthen the control of donations, and reduce the opportunity for corrupt behaviour by prescribing the following.
  - (a) Restrict donors to people on the Victorian electoral role.
  - (b) Limit the amount donated by an individual donor to no more than \$500 in any 12 month period.
  - (c) Require all donations to be made public within 7 days of receipt (whether before, during or after elections) together with a full list of all donations no later than 7 days before the election.

These crucial changes would achieve the following.

- (i) Restrict corrupt conduct and the ability of corporations and businesses to inappropriately influence the outcome of elections and decision making by councillors.
- (ii) Improve the reputation of the City of Melbourne and State of Victoria by bringing it in line with the more enlightened jurisdictions where the donation/corruption problem has already been recognised and dealt with.
- (iii) Remove the taint or suspicion of corruption.
- (iv) Restore/improve the reputation and credibility of the City of Melbourne.
- (v) Improve transparency and the fair and equitable operation of the election process.

**CONTROL DONATIONS AND STOP UNDUE INFLUENCE AND CORRUPTION.**

20. Repeal section 14 of the CMA that requires the Mayor and Deputy Mayor to be elected at the same time as councillors and instead provide that:
- (a) the mayor still be elected directly but for a maximum of two consecutive terms, and
  - (b) the deputy be elected by councillors for a term of two years not exceeding two consecutive terms.

The benefits that would flow from this are as follows.

- (i) Limit the time one person may hold the position of mayor.
- (ii) Prevent the mayor and deputy standing for election on a "ticket".
- (iii) Encourage rotation of Deputy Mayor within councillors thus building experience more broadly.
- (iv) Remove undemocratic voting blocs.

**CONCLUSION**

We therefore urge government to take these limited steps as a matter of urgency to ensure that the next election of the mayor and councillors of the City of Melbourne is conducted in a democratic, fair and transparent way that reflects government's recognition of the seriousness of these problems and the need to restore the reputation of the City of Melbourne as the capital of the State of Victoria.

**THE 2012 ELECTION MUST UNDER NO CIRCUMSTANCES BE REPEATED.**

Melbourne South Yarra Residents Group Inc  
16 December 2015