

**Submission  
No 6**

**INQUIRY INTO WHETHER VICTORIA SHOULD PARTICIPATE IN A  
NATIONAL ELECTORAL ROLL PLATFORM**

**Organisation:** Victorian Electoral Commission

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22 October 2021

Mr Lee Tarlamis OAM MLC  
Chair  
Electoral Matters Committee  
Parliament of Victoria  
Parliament House, Spring Street  
EAST MELBOURNE VIC 3002

Dear Mr Tarlamis,

**Submission to the Electoral Matters Committee Inquiry into Whether Victoria Should Participate in a National Electoral Roll Platform**

The Victorian Electoral Commission (VEC) appreciates the opportunity to contribute to the Electoral Matters Committee (Committee) inquiry into whether Victoria should participate in a national electoral roll platform.

For consideration, I enclose the VEC's submission. The submission focuses on two of the matters raised in the Committee's terms of reference, namely the benefits and risks of Victoria moving towards a national electoral roll platform and the security and integrity of Victoria's electoral system.

While the VEC can provide information on the mechanisms it has in place to ensure the security and integrity of electoral systems in Victoria, it cannot offer commentary on the practices of other jurisdictions or those internationally.

I would be pleased to expand on this submission during the Committee's public hearings for this inquiry.

Yours sincerely



Warwick Gately AM  
Electoral Commissioner

encl. Submission to the Electoral Matters Committee – Inquiry into Whether Victoria Should Participate in a National Electoral Roll Platform

Submission to the Electoral Matters  
Committee

**Inquiry into whether Victoria should  
adopt a national electoral roll platform**

October 2021





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22 October 2021

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## Acknowledgement of Country

The VEC pays respect to Victoria's traditional owners and their elders past and present who have been custodians of this country for many thousands of years. Their living culture and their role in the life of Victoria is acknowledged by the VEC.

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## Definition of terms

The table below sets out the terms used in this submission.

Term	Definition
Electoral register	<p>The term ‘register of electors’ is defined within the <i>Electoral Act 2002</i> (Electoral Act). However, the other term that is often used when referring to the register of electors is ‘electoral register’.</p> <p>This is particularly prevalent in the Governor in Council arrangement for a joint electoral enrolment procedure and discussions with the Australian Electoral Commission (AEC).</p>
Electoral roll	<p>Ahead of each election, a snapshot is made of the register of electors that becomes the electoral roll for that election. The date this will happen is announced in advance and is called the ‘close of roll’. The electors registered by the close of roll are included in the electoral roll for that election and can vote in that election.</p>
Governor in Council arrangement	<p>The Governor in Council arrangement forms a joint enrolment procedure for the purpose of enrolment for the Commonwealth and Victorian elections and the revision of rolls under Commonwealth and Victorian legislation. The power for the Governor in Council to enter into an arrangement with the Governor-General of the Commonwealth is set out in section 20 of the Electoral Act.</p>
National Electoral Platform (NEP)	<p>A national electoral platform is a secure information technology hosting environment, administered by a national management structure, which provides a shared services capability for election management bodies (EMBs). This platform would, in the long term, provide access to any number of electoral systems, simultaneously running multiple electoral events across the country.</p>
Register of electors	<p>The ‘register of electors’ for Victoria established and maintained under section 21 of the Electoral Act contains the names and addresses of all electors and the particulars required under that Act. The register of electors can also be called the electoral register.</p>
Roll Management System (RMS)	<p>An RMS is a system used by a EMB to store and manage electors’ data. The VEC’s RMS stores and manages the data of the register of electors and provides for all administrative activities to maintain and update the register.</p> <p>The register provides roll products required for State and local government elections, jury service and other enrolment information and roll production requirements under the Electoral Act, <i>Local Government Act 2020</i> (LG Act) and other legislation.</p>

# Introduction

On 4 August 2021, the Legislative Assembly referred an inquiry into whether Victoria should participate in a national electoral roll platform to the Electoral Matters Committee (EMC).

The Terms of Reference of the inquiry set out three key matters that the EMC should consider. These matters include:

1. the possible implications, if any, of a national electoral roll platform on the independence of the Victorian Electoral Commission (VEC)
2. the security and integrity of Victoria's electoral systems
3. mechanisms to ensure the security and integrity of electoral systems and events in other jurisdictions around Australia and internationally to determine best practice.

The EMC invited the VEC to provide a submission to the inquiry. The EMC expressed an interest in exploring the potential benefits and risks of Victoria moving towards a national electoral roll platform (rather than the State of Victoria continue to maintain its own electoral platform); and the VEC's views on the implications for the security and integrity of Victoria's electoral systems as well as the VEC's independence. The EMC is also interested in exploring the current mechanisms the VEC has in place to ensure electoral security and integrity.

This submission contains three parts and forms the VEC's response to the inquiry.

Part 1 of the submission addresses the first matter set out in the Terms of Reference. While the EMC is primarily interested in the implications of a national roll management system (RMS) for Victoria, the VEC notes that it is important to consider the overall development of the Common National Electoral Platform (NEP) and the capacity for the NEP to support a national RMS. This is because the deployment of a national RMS is inextricably linked to the development, structure, and capacity of the NEP.

To provide the necessary context, Part 1 of this submission gives an overview of the NEP, including the establishment of the Interjurisdictional Working Group on Electoral Integrity and Security (working group) and the evolution of the NEP concept; the current status of the NEP; the high-level risks and benefits of accessing a national RMS through the NEP; and the VEC's overall views and recommendations on whether Victoria should participate in an NEP.

Part 2 of the submission sets out the VEC's view that to support the movement to a national electoral roll platform, Victoria would require significant legislative harmonisation across many instruments, including some outside of core electoral legislation. Any harmonisation of legislation would need to consider the dependencies other Victorian Public Sector organisations have on the provision of enrolment data to assist them in their regulatory objectives. This part of the submission sets out the risk that after harmonisation, a national RMS may not be sufficient to fully support all critical activities that the VEC undertakes, the consequence being that the VEC may still need to retain an independent RMS.

Part 3 of the submission provides an overview of the security and integrity arrangements, initiatives, and responses that the VEC has in place to ensure the security and integrity of Victoria's electoral system. Part 3 of the submission responds to the general interest of the

EMC about the security and integrity of Victoria's electoral system set out in the second and third matters in the Terms of Reference.

While the VEC can provide information on the mechanisms it has in place to ensure the security and integrity of the electoral system in Victoria, it cannot offer comment on the practices of other jurisdictions.

## Executive summary

The VEC appreciates the opportunity to contribute to this inquiry. Through this submission, the VEC outlines that should a national RMS become available, it will be accessed through the NEP once it is realised. While there are several potential benefits to a national RMS, Victoria's RMS underpins the electoral work that the VEC currently performs. There are a range of critical challenges and risks that must be addressed to ensure Victoria's electoral integrity and security is not compromised in the process of adopting a national RMS.

These challenges and risks include the need to introduce significant reforms to Victorian legislation; the potential impact on the VEC's independence and critical activities if the VEC and the State of Victoria no longer have ownership of the RMS; the capacity of a national body to meet the demand of local government elections and other critical activities; security risks; and budget and operational delivery risks.

In summary, the delivery of an NEP and a national RMS is some time in the future, and overcoming the challenges outlined in this submission will require significant investment, both in resources and in time, while many of the benefits of a national RMS are already enjoyed by the VEC through the Joint Roll Arrangement with the Australian Electoral Commission. The VEC has already started the work to replace its RMS to address known limitations and vulnerabilities. Moving to a national RMS at this time would require the VEC to establish additional systems to support changing requirements.

### Recommendations

The VEC makes the following recommendations in response to the Inquiry:

1. Victoria should agree to continue to contribute to the development of the concept of an NEP;
2. Victoria should not, at this stage, surrender components of its independent electoral system, notably its own RMS, given the early and nebulous nature of the NEP's development, the consequent significant work required to harmonise electoral legislation, the investments the VEC has already committed to replace its RMS, and the RMS' criticality to Victoria's election activities, including local government elections; and
3. The VEC should continue to progress its plan to replace its current RMS to ensure continued legislative compliance and to provide Victoria with full independence in meeting future State and local government election requirements.

# Part 1 – Development of the Common National Electoral Platform

The EMC has asked the VEC to provide views on the potential benefits and risks of moving towards a national electoral roll platform, rather than the State of Victoria continuing to maintain its independent roll system.

Consideration of the creation of a Common NEP is well underway. Under this model, a national RMS would be able to be accessed through a Common NEP. As such, it is necessary to set out the development of the NEP, its current status, and its potential capabilities in the context of considering the feasibility of the VEC using a national RMS. The two questions are inextricably linked.

## An approach to governments

In July 2017, the Electoral Council of Australia and New Zealand (ECANZ)<sup>1</sup> approached First Ministers as members of the Council of Australian Governments (COAG) alerting to risks and vulnerabilities in Australia's electoral infrastructure, while identifying the benefits arising in modernising systems and applications through a national cooperative approach in various matters, for example, electronic voting. This followed elections in Europe and the United States where there was considerable media reporting on the topic of electoral integrity, interference and disruption by unknown parties including state actors during these events.

About this time an Australian Strategic Policy Institute (ASPI) report *Securing democracy in the Digital Age* canvassed similar issues confronting Australia's electoral system and outlined a framework for election security, including cyber security of election infrastructure and information security that shapes public opinion. One recommendation in this report was to identify election systems to be critical national infrastructure as was the case in the United States.<sup>2</sup>

Informed by these ASPI findings, COAG also considered proposals from the ECANZ to modernise state and federal electoral systems. COAG noted the importance of cooperation to mitigate cyber security risks and looking forward to the Australian Cyber Security Centre's (ACSC's) proposed cyber-security health checks of national electoral processes.

At a subsequent meeting on 12 December 2018, in acknowledging the importance of safeguarding institutions and democracy, COAG agreed to establish and support a Commonwealth-State working group of Electoral Commissioners, electoral policy leads, the National Counter Foreign Interference Coordinator and the National Cyber Security Adviser to strengthen the security of Australia's electoral systems, data and processes including the electoral rolls managed and maintained by electoral commissions throughout Australia.

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<sup>1</sup> ECANZ is a consultative council of Electoral Commissioners from the Australian Commonwealth, States and Territories, and New Zealand. In their deliberations ECANZ members focus on all aspects of electoral administration, including the shared challenges faced by electoral authorities.

<sup>2</sup> Australian Strategic Policy Institute Limited, *Securing Democracy in the Digital Age* (Report, May 2017), 15. <[https://s3-ap-southeast-2.amazonaws.com/ad-aspi/2017-08/ASPI%20Securing%20Democracy.pdf?VersionId=j6l4yMJ0WZvVnLo3JodbYjg\\_2PLx6Jlp](https://s3-ap-southeast-2.amazonaws.com/ad-aspi/2017-08/ASPI%20Securing%20Democracy.pdf?VersionId=j6l4yMJ0WZvVnLo3JodbYjg_2PLx6Jlp)>

This was underscored by the Prime Minister when he told the House of Representatives on 18 February 2019 that: “Australia’s democratic process is our greatest asset: our most critical piece of national infrastructure.”<sup>3</sup>

## Evolution of the National Electoral Platform (NEP) Concept

On 10 July 2019, the working group established through COAG and chaired by the Department of Prime Minister and Cabinet agreed that Electoral Commissioners would undertake further work to develop a proposed NEP framework. This would include discussion on governance arrangements, funding, and options for legislative change. It was further agreed that future meetings of the working group would be informed by that work, including determining priority areas for consideration.

These elements of an NEP framework were addressed by Electoral Commissioners in a workshop in August 2019 where a working definition of an NEP was developed along with preliminary ideas on governance arrangements and the operation of the platform.

*A national electoral platform is, a secure Information Technology hosting environment, administered by a national management structure, which provides a shared services capability for Election Management Bodies (EMBs). This platform would, in the long term, provide access to any number of electoral systems, simultaneously running multiple electoral events across the country.*

Control or governance arrangements around the NEP would need to recognize the independence of each EMB, their associated legislative responsibilities and their accountability for their election processes. There would be shared, non-partisan, inter-jurisdictional ownership, and operation of the platform and similar consideration on its funding and resourcing, including any up-front capital investment.

Further, under the framework, an operational NEP would need to comply with Australian cyber security standards and retain the capacity for timely responses to multiple jurisdictional demands, including the running of concurrent electoral events. The platform would need to be able to progressively incorporate additional systems and applications and respond to legislative differences between jurisdictions. The platform also must enable individual EMBs to begin using services in a staggered manner as their current systems reach their end of life. Public and political trust in the platform cannot be compromised by adopting the NEP.

## Potential systems and applications for the NEP

In developing an initial list of priority electoral systems for delivery through a national platform, ECANZ considered:

- the criticality of the systems to the election function and in maintaining confidence in Australia’s electoral systems
- the potential for cyber security vulnerabilities

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<sup>3</sup> The Hon Scott Morrison MP, ‘Statement to the House of Representatives on cyber security’ (Media Release, 18 February 2019). <<https://www.pm.gov.au/media/statement-house-representatives-cyber-security>>

- the systems' readiness for implementation and suitability for consideration at a national level.

As a practical approach, ECANZ discussed beginning the project with a short-term implementation of systems that show a higher degree of readiness, whilst concurrently working on longer-term issues including RMS. Systems identified which could be considered for earlier delivery through the platform would include online nominations, on-line funding and donations disclosure, election results management and online processes to facilitate overseas postal voting.<sup>4</sup>

With regards to RMS, proposals to replace EMBs' existing RMS are currently under consideration by the AEC and the VEC. The procurement and implementation required to replace these systems will take time. For Victoria, a new RMS is anticipated to be operational for the 2024 local government elections. As such, although ECANZ agreed that consideration of electoral roll systems for inclusion in the national platform remains of the highest priority, inclusion at this time would appear not to be practicable. This said, noting the COAG specific reference to "electoral rolls which are managed and maintained by electoral commissions throughout Australia", the attention of the working group has not been blind to the idea of an electoral roll system being included early on this common NEP.

## The status of the NEP

The VEC notes that, as at mid-September 2021, the NEP remains in a conceptual phase within the working group. While there has been consideration around relevant technologies, risks, benefits, functionality, governance, costings and potential timings, and a jurisdictional willingness to realise an NEP, there has been slow progress toward the goal.

In taking the framework for the NEP further, ECANZ recommended to the working group that a working party be formed to develop feasible options for an NEP, including timelines and priorities, governance and operating arrangements and projected costings including funding for ongoing operations.

In bringing systems onto an NEP, the working party noted that many are relatively standard systems across jurisdictions, yet others directly support the range of electoral processes unique to and reflecting the legislation respective to that jurisdiction. Those systems more easily harmonised for use by most jurisdictions could include, for example, election staffing systems, learning management systems, call centre services and online nominations. Consistent with the ECANZ view, the working party noted that there needed to be a longer-term approach to the transition onto an NEP for systems such as RMS, counting and ballot paper scanning systems.

In reaching the NEP goal, the working party noted there would be a gradual inclusion of systems onto the platform, subject to risk, current system vulnerability, available resources and the maturity of the platform and its operation. This would allow the onboarding of jurisdictions in a sequential manner allowing them in many cases to achieve a return on their investment in their current systems. Alternatively, a far-reaching approach would be to develop modern best practice shared systems, hosted on the platform and then having all jurisdictions move simultaneously to draw upon the hosted systems. This would include progressing multiple systems developments at the same time. Of these two approaches, the

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<sup>4</sup> These are online processes to enable overseas postal voting, rather than an internet voting system where the electors cast their vote through the internet.

working party determined that “an iterative [gradual] approach would be the most practical path to allow onboarding of jurisdictions in a sequential manner as new capabilities are being introduced.”<sup>5</sup>

In operating an NEP, there would need to be a formal agreement between jurisdictions, perhaps in the form of an Intergovernmental Agreement (IGA), whereby high-level principles would be identified along with other matters such as data protection, privacy, security, levels of service, platform performance and accountability. Oversight of the NEP would fall to ECANZ or a separately established body. Funding would be determined principally by the governance model established, noting any capital investment required to develop and thereafter would take the form of a per-capita contribution or a fee for service arrangement.

in July 2020, the working group members agreed to join for a second phase of work to build on this work. The project would further develop the concept of an NEP including a deeper investigation of the potential IT systems, more detailed costings, and articulation of governance arrangements.

This further work identified the need for an appropriate governance structure in the form of an IGA, the gradual inclusion of functions in the NEP to include initial capabilities and a costing model based on a per-electoral basis with appropriate cost recoveries.<sup>6</sup>

While the concept of a common hosting environment for election systems and applications has some merit, this potential move to harmonization is a complex project requiring alignment of laws, operations and processes and recognising different jurisdiction electoral cycles, resources, capacity, and requirements.

## The Victorian electoral roll arrangement

The Electoral Act requires the VEC to maintain a register of electors and to produce voters’ rolls under the LG Act.<sup>7</sup> To assist, the VEC (as for other States and Territories) has a Joint Roll Arrangement (JRA) with the Commonwealth for the provision of roll services. However, Victoria does operate its own RMS (as does the Commonwealth and Western Australia) from which it produces all roll products required for Victorian Parliamentary and local government elections, jury service and other roll products and enrolment information. This has been the situation since 1993, when Victoria departed from its position of full reliance on the Commonwealth for roll products and services following concern about the timeliness of roll products, system functionality and costs. While all these concerns may not exist today, the Commonwealth is unable to produce a coded local council voters’ roll from the national roll for any Victorian local government election. This is satisfied through the Victorian register of electors.

While independent in maintaining the Victorian register of electors, the VEC regularly exchanges roll information with the AEC under the JRA at a varying per-electoral annual cost to Victoria of currently \$2.14 million. The State register, through this information sharing and other data matching and mining activities, currently accurately contains the details of 96.2% of

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<sup>5</sup> National Electoral Platform Working Party, *Options for a Possible National Electoral Platform (NEP)* (Phase 2 Report, 2020) 28.

<sup>6</sup> The initial capabilities, including electoral roll, were identified as essential components to prepare, conduct and evaluate an electoral event.

<sup>7</sup> *Electoral Act 2002* (Vic), s 8(2)(c).

the estimated eligible Victorian population. This represents a 0% variation from the national enrolment rate, within our stated target of +/-1% variation from the national enrolment rate.

In undertaking its roll management program, the VEC is meeting its legislative responsibilities and providing the state with full independence in the creation of its variety of high quality and critical roll products. This is expanded upon later in the submission.

## The current Victorian RMS

The Victorian RMS' origin dates to 2000. It uses technology that will become unsupported in 2023. Compared to modern customer relationship systems, Victoria's current RMS does not currently store transactional information about interactions with electors and uses an interface with its origins from the 1990's with no online help module. Most importantly, the technology platform that supports RMS is maintained by a small and diminishing group of technical personnel and this presents risk to the VEC.

Notwithstanding these known limitations and vulnerabilities, RMS is stable and effectively supported the VEC's operations through the 2020 local government elections and will do so in the 2022 State election.

### RMS replacement project

Given the technology challenges outlined above, the VEC has commenced a project to replace its RMS. This program of work commenced in early 2020 and will be completed in December 2023, ahead of the Victorian 2024 local government elections.

## The benefits and risks

As a general observation, noting both the benefits and risks, the inclusion of a RMS onto an NEP or some other form of a shared service has significant implications for Victoria, its electoral rolls, roll products and services, should the decision be taken to participate in such an arrangement.

### Benefits

There are several potential benefits to an NEP should it be realised. From a cyber security perspective, managing, testing, auditing, maintaining, and upgrading one system rather than multiple similar systems across jurisdictions is more efficient. User knowledge would be regularly enhanced as compared from once every three- or four-year electoral cycle as at present. Importantly, all EMBs would slowly move away from ageing legacy systems and adopt more modern systems, which are easier to update and maintain. Consequently, there could be ongoing financial benefits across all EMBs.

### Risks

#### Technical security

Major risks associated with an NEP are mostly technical, as would be the case in any large-scale ICT system development and deployment. This would include unclear and changing system requirements, a high level of technical complexity, underestimated or inadequate resourcing and poor project planning.

Further, the consolidation of all relevant election functions into a single platform would create a larger target for malicious actors. The current dispersal across jurisdictions of critical functions such as vote counting systems provides a measure of risk mitigation. While harmonisation presents opportunities, it is determining where that harmonisation can practically occur that is challenging.<sup>8</sup>

In terms of accessing a national RMS as a shared service on the NEP, depending on how Victorian enrolment data would be separated from other jurisdictions' enrolment data in the national RMS, a security or data breach for another jurisdiction's enrolment data held on a national RMS may pose a risk to Victoria's enrolment data. The management of State data in a "national data" context does not remove the broader risk of inadvertent or targeted data access of Victoria's State-related information.

The VEC also notes that there are risks specific to privacy and data protection if one of Victoria's most important dataset and system is not held within the State's direct custody or control. There are a number of risks to note:

- The national organisation may not share Victoria's assessment of the value of the comprehensive dataset and may not assign appropriate resources to manage this data set proactively and reactively. There is a risk that the information's integrity, completeness, confidentiality, or accessibility is compromised, and any incidents are not managed to Victoria's security threshold.
- The information repository/system or system custodian at the national level may not be able to make responsive system changes in a period required by the VEC and in response to legislative or business requirement changes or necessitated by critical business continuity matters.
- The national organisation's risk appetite may well be different to the VEC's with proactive and reactive mitigations so different that the VEC's security position is not met.
- The national organisation may not properly share the information, in a manner or within the timeframe required by VEC stakeholders.
- Organisations that currently contribute to the VEC's datasets may not share with, or cannot share with, an agency in another jurisdiction without significant legislative reform and harmonisation.
- The new system may not be able to produce all the roll products that VEC has committed to or is obligated to produce.

### Reputational risk

While a centralised system managed at the national level has benefits, the VEC notes that the reputational risk for the VEC is significant. The VEC will still be accountable for the full range of electoral activity, including the accurate storage, maintenance and security of elector

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<sup>8</sup> The federal system presents some challenges to achieving harmonisation. Agreement must be secured between all nine jurisdictions before a consistent approach can be implemented and where legislation is required to give effect to a harmonised approach, there is a risk that it may be varied by one or more of the nine parliaments. The political environment is constantly changing which can present challenges to maintaining a harmonised approach in a particular area. "Electoral Reform Green Paper, *Strengthening Australia's Democracy*" September 2009, Commonwealth of Australia, para 3.18, pg. 27.

information. A significant issue for the VEC is the inherent inability to internally acquit that the information held in a national RMS managed by another organisation is safe, secure and accurate without having ownership of the national system.

This leads to the VEC to hold all accountability without any real capacity to ensure that issues do not occur, thus reducing the VEC's capacity for independence in the provision of electoral related activity for Victoria. The broader risk is the undermining of the integrity of election events.

### Financial risk

Currently, there is no substantial information that would allow the VEC to accurately determine the cost of an NEP and a national RMS. However, it is the VEC's view that the set-up costs will be significant, and the ongoing costs will also be high. There will also be additional unquantifiable costs associated with modifying other VEC systems that rely on RMS data, such as the VEC's Election Management System, to facilitate integration with a new system.

The VEC notes that the current joint roll arrangement with the AEC, and provision of inhouse roll production and enrolment data is cost effective. The VEC has already commenced the replacement of the current RMS and will have this completed in December 2023 ahead of the 2024 local government elections. This capital expenditure will have already been actualised, and the cost to the VEC to also participate in the formation of a national electoral roll platform may be prohibitive.

As outlined in Part 2 of this submission, ownership of the RMS is an integral aspect to many parts of the VEC's work that goes beyond the roll itself. Ownership of the state's RMS enables the VEC to control RMS-associated costs and ensure that associated products are delivered on time and within budget. If a national system is not able to fully accommodate the VEC's legislative and system dependency requirements, the VEC will need to establish an additional system to support these requirements. This will result in cost duplication with two systems needing to be maintained.

### Harmonisation risk

There are risks involved in the complicated project envisaged in the NEP and of bringing together jurisdictions with differing legislative and constitutional arrangements, which are often highly prescriptive and reflected in their established operations and procedures. A national RMS would need to respond to all these requirements. This could be likened to developing a new system in an organisation that was structurally unstable.

If national harmonisation fails to address the specific requirements of Victoria, or other jurisdictions, there is a risk that the shift to a national RMS may affect the rights of Victorians. For example, the entitlements of prisoners to participate in elections are not unified across jurisdictions.

## **Should Victoria participate in a national electoral roll platform?**

The VEC notes that the more immediate consideration for the EMC is whether Victoria should participate in the NEP, and whether in the future this includes participating in a national electoral roll system/function hosted on the NEP should it eventuate. One decision is inextricably linked to the other.

On balance, the concept of an NEP has merit, albeit there are both benefits and risks in establishing and operating such a platform. The NEP concept under consideration would realise the development of a hosting platform on which various systems or functions would transition as they become available, allowing jurisdictions the flexibility to come onboard and access a particular system or function they need. Participating jurisdictions would need to consider the timing of their electoral event, the investments they have made in their existing systems, and their organisational readiness including the current maturity of their cyber security posture.

In Victoria's case, there could be benefit in having the VEC access 'second order' systems should an NEP eventuate, such as learning management systems and secure file transfer systems. This would allow the NEP concept to be fully realised and tested, and for the VEC to observe the performance of the platform, its operation, governance arrangements, costing model, and suitability in satisfying identified Victorian requirements.

The VEC notes that participating in the NEP and accessing the functionality of a hosted RMS is another question requiring a very high level of consideration and discussion.

Further to the earlier discussion on Victoria's current electoral roll arrangement, a move away from the current arrangement would be a fundamental shift in how the VEC maintains and operates the State register of electors as required by State law. Subject to the governance arrangements around an NEP, accessing a common RMS via an NEP would result in this single harmonized roll system being administered by a national management structure, in some form, and outside the direct control of a Victorian government agency. It could be argued this may not be in the best interests of Victoria and its electors.

## **Implications on the VEC's independence**

While the concept of an NEP may take many years to be realised, if at all, it is necessary to note that the AEC is also embarking on a project to replace its version of RMS, the RMANS, and that this new system will be designed to facilitate the provision of electoral roll services to other jurisdictions, as is already the case. While the details and status of the Commonwealth's RMANS replacement project are unknown, including the timeline of its delivery and urgency requirements, one risk to Victoria is that as the AEC acts to replace their RMANS, in conjunction with the COAG's supported movement to an NEP, Victoria may by default lose its current enrolment and roll product independence.

Irrespective of this scenario which may be several years in the future, and may ultimately enjoy the Victorian Government's support, it is necessary now to replace Victoria's RMS so that the VEC can continue to meet its legislative responsibilities and that critical state roll products can be provided securely during any transition to a different arrangement if so agreed. The VEC's analysis of options to ensure ongoing continuity in this regard while managing risk supports this approach.

## The VEC's recommendations

In answering the question as to whether Victoria should participate in a national electoral roll platform, the VEC recommends that Victoria should agree to continue to contribute to the development of the concept of an NEP.

This will critically enable Victoria to observe the NEP's development and its associated arrangements, and if the platform is realised, enable Victoria to access a "second order" function of the NEP in the first instance as a practical risk mitigation strategy.

Regarding whether Victoria should access a RMS via the NEP, rather than continuing to maintain its own electoral roll management system, the VEC offers that, at this stage, Victoria should not surrender components of its independent electoral system, notably its own RMS, given the early and nebulous nature of the NEP's development, the consequent significant work required to harmonise electoral legislation, the RMS' criticality to the State's various elections, and the investments the VEC has already committed to replace its RMS. As a proposition, consideration can be given at a time in the future when an NEP has been realised, is operating successfully and the VEC has realised the benefit from any previous investments.

In light of the pressing technology risks, and the early realisation of benefits of an updated RMS, the VEC will continue to move quickly to replace its current RMS, aware that the NEP concept and the Commonwealth's plan to replace their RMANS, in combination, could incorrectly encourage a delay to the replacement of Victoria's RMS.

Of course, any learnings during the development of Victoria's new RMS could be incorporated into the realisation of the NEP and its shared service offering. Indeed, a newly developed Victorian RMS could form the basis of a national roll system hosted on the NEP and accessible to all other jurisdictions.

## Part 2 – Key challenges for a national roll management system

The VEC has identified several key challenges to be addressed if Victoria was to move to a national RMS:

- There is no current legislative capacity for the VEC to “contract out” its legislative obligations, therefore significant legislative harmonisation would need to occur across a significant number of instruments, including those outside of the core electoral legislation (for example, *Constitution Act 1975*; *Electoral Boundaries Commission Act 1982*).
- Any harmonisation of legislation would need to consider:
  - o the dependencies on receipt of information from other parties to maintain the Victorian register of electors
  - o the dependencies of other parties on the provision of enrolment data and roll products to assist them in their regulatory objectives (for example, the creation of juries list under the *Juries Act 2000* (Juries Act), and the management of liquor licencing polls under the *Liquor Control Reform Act 1998* (Liquor Control Reform Act));
- Regardless of harmonisation of legislation, there is a risk that a national RMS may not be sufficient to fully support all critical activities that the VEC undertakes, and as such, the VEC may still be required to retain an independent roll management system.

### Harmonising electoral legislation

The VEC suggests that significant harmonisation of electoral legislation would need to occur to support and permit movement to a NEP that was managed and maintained by an agency other than the VEC.

Harmonisation of electoral legislation would be required across the various Electoral Acts and Regulations (i.e., Electoral Act, Electoral Regulations 2012, LG Act and the Local Government (Electoral) Regulations 2020) as well as a significant number of other instruments.

There are two main aspects of the Electoral Act that speak to the legislative obligations on the VEC. These are:

1. the requirement for the VEC to establish, maintain and regularly update a register of electors for Victoria;<sup>9</sup> and
2. the responsibilities and functions on the VEC with respect to enrolment and roll production.<sup>10</sup>

The VEC notes that the requirements set out in section 21 of the Electoral Act are the most critical aspects of consideration with respect to an NEP. The provision requires the VEC to

<sup>9</sup> *Electoral Act 2002* (Vic), s 21.

<sup>10</sup> *Electoral Act 2002* (Vic), ss 8(2)(c), 8(2)(ca), 29(1)(a)-(c).

“establish, maintain and regularly update the register of electors for Victoria”,<sup>11</sup> and the VEC is of the view **that this is a requirement that cannot be contracted out**. When considered alongside other sections within the Electoral Act, as well as the Governor in Council Arrangement for a joint electoral enrolment procedure, substantial modifications to the Electoral Act would be required to permit the VEC to consider other organisations to maintain and update the register of electors for Victoria.

Similarly, sections 8(2)(c) and 8(2)(ca) of the Electoral Act set out the responsibilities of the VEC to produce voter’s rolls for local government elections and assist the Melbourne City Council with the preparation of its voters’ roll. Legislative reforms will be required if a national organisation is to be involved in the preparation of the rolls for these elections.

For more detailed information around the legislative obligations and aspects that would need to be harmonised, refer to the Appendix.

## The provision of enrolment information

### Provision of information from other parties

Under section 26 of the Electoral Act, the Registrar of Births, Deaths and Marriages and the Secretary to the Department of Justice and Community Safety are required to provide information to the VEC to support the preparation, maintenance or review of the register of electors.<sup>12</sup> The VEC notes that this requirement would need to be revised, and there is the potential that the level of information provided at State level could not be compelled at the Commonwealth level. This is an important hurdle to overcome, particularly for the purposes of local government elections and liquor licensing polls.

It is the VEC’s view that this enabler within the Electoral Act, and the subsequent operationalisation of this section significantly contributes to the integrity and accuracy of the register of electors. It is noted that a transition to a national electoral enrolment platform that is managed by an organisation other than the VEC would require careful legislative consideration and modification to enable this critical activity to continue at the national level.

### Provision of information to other parties

The VEC is responsible for the administration of the enrolment process and the conduct of parliamentary elections and referendums in Victoria.<sup>13</sup>

The Electoral Act strictly regulates the way the VEC collects, uses and discloses enrolment information. Under this aspect of the legislation, the VEC is required to provide mandatory and discretionary enrolment information, as well as formal electoral roll products to other parties. The provision of mandatory and discretionary enrolment information may be in the form of a roll ‘product’ which is provided under section 33 of the Electoral Act;<sup>14</sup> or as enrolment information taken from the enrolment data set as found in the register of electors, provided under section 34 of the Electoral Act.<sup>15</sup> An example of the provision of enrolment information

<sup>11</sup> *Electoral Act 2002* (Vic), s 21.

<sup>12</sup> *Electoral Act 2002* (Vic), ss 26(1)-(3).

<sup>13</sup> *Electoral Act 2002* (Vic), s 8(1).

<sup>14</sup> *Electoral Act 2002* (Vic), s 33.

<sup>15</sup> *Electoral Act 2002* (Vic), s 34.

as a roll product is in the list of electors (name and address only) provided to Members of Parliament and election candidates.

### Mandatory information

The Electoral Act stipulates several circumstances in which electoral information must be made available and how it must be made available.<sup>16</sup>

- The list of Victorian electors (names and addresses only), excluding silent electors, must be made available for public inspection at the offices of the VEC and updated every 6 months. Information can only be searched by name.
- The latest print of any electoral roll produced for an election (which contains name and address details only) must be made available for public inspection, free of charge, at locations and during times determined by the VEC.
- Enrolment information, excluding silent electors, must be provided several times each year (up to 11 times and at the time of an election) to registered political parties, Members of Parliament and election candidates for permitted purposes.

The mandatory provision of enrolment information to other organisations is enshrined in respective legislation (Juries Act, LG Act etc). The provision of enrolment data to other organisations through these legislative requirements supports the organisations to undertake their regulatory or functional responsibilities.

An example of where enrolment information is required to be provided under other non-electoral legislation is the provision of enrolment data to Juries Victoria. Under section 19 of the Juries Act, the VEC provides lists to Juries Victoria of people who are eligible for jury service, and processes exemptions from jury service on a monthly basis.<sup>17</sup>

### Discretionary provision of enrolment information

Section 34 of the Electoral Act provides the mechanism under which the VEC may release enrolment information in defined circumstances. The VEC may enter into an information-sharing deed with an applicant. This occurs when the public interest in providing the requested information outweighs the public interest in protecting the privacy of personal information.<sup>18</sup>

In 2020-21, enrolment information was provided to five organisations under existing agreements subject to section 34 of the Electoral Act. A standing agreement has been in place with Victoria Police since 2005, which allows immediate secure access to the register of electors.

Additionally, the VEC has facilitated larger ad-hoc requests for research or public health related purposes. Previous examples (outside of the 2020/21 year) include the complex provision of enrolment related information to the Beyond Bushfires project; and provision of a list of electors, excluding silent electors in a one-off information sharing arrangement with the

<sup>16</sup> *Electoral Act 2002* (Vic), ss 32, 33.

<sup>17</sup> Jury trials were suspended in Victoria until November 2020 to prevent the spread of COVID-19. Prior to this a total of 45 jury rolls were provided under legislation in 2019-20, and a total of 29 jury rolls were provided under this legislation during 2020–21.

<sup>18</sup> *Electoral Act 2002* (Vic), s 34(2).

then Department of Health and Human Services to assist in the monitoring the progress and impact of COVID-19.

### Volume of roll products and enrolment data

The VEC distributes thousands of different roll products and enrolment data to external agencies and third parties. In 2019-2020, VEC distributed 1,303 individual roll products and enrolment data pursuant to sections 33 and 34 of the Electoral Act, the Juries Act and other legislative instruments. In addition, in 2019-20 the VEC provided 10,957 single sets of enrolment data to several agencies pursuant to section 34 of the Electoral Act.

The VEC notes that a national system would need to facilitate the distribution of these roll products, and to the significant volume that is currently required. It also notes that for the provision of enrolment under sections 33 and 34 of the Electoral Act, there is a high level of flexibility that will be required of the national system to enable this. Furthermore, consideration needs to be given with respect to the reliance of numerous public sector and other critical services on the provision of this information. There is a risk that a national RMS may not be sufficient to fully support the volume and flexibility required under these two sections and as such, the VEC may still be required to retain an independent roll management system.

For more detailed information around the legislative requirements in relation to the mandatory and discretionary provision of enrolment information that would need to be facilitated, refer to the Appendix.

## **Dependencies on the RMS to support critical work of the VEC**

The use of the RMS is integral to the VEC's responsibilities in delivering elections and other critical work. If these critical needs are not able to be fully addressed by the national RMS after harmonisation, the VEC will have no choice but to continue to operate and maintain a form of its own RMS (with potentially reduced functionality) to continue to support Victoria's State and local government election functionality, provision of roll products and the provision of local government voters' rolls.

The VEC notes that having ownership of the RMS enables the VEC the flexibility to respond to changing circumstances and plan for improvements in service delivery. If Victoria was to move to an NEP, there would be significant implications around the delivery of these critical pieces of work due to the breakage from these interlinkages. Some of these critical dependencies are outlined below.

### Election Management Systems (EMS)

The EMS is the VEC's suite of computerised election systems used to deliver election events. The VEC notes that the functional capability for the EMS is dependent upon certain data being held within the RMS, as well as the VEC having control of the RMS. Even if the VEC is able to use a national RMS from which roll products could be created, the VEC may still need to invest in an RMS system to support election events, as the current integration with EMS goes beyond the roll itself. There are significant linkages between the current RMS and the existing EMS.

The EMS sources the current structures of Victorian electorates from the RMS, so that it can establish elections with the current electorates. The EMS also uses electorate information in various ways through the RMS, including to code locations to the residing electorate. The VEC has an integration point between its personnel management system and RMS to code those who have registered to work in elections to their residing district and municipality.

The RMS produces a series of roll products, including mailout files, roll extracts, scannable rolls, and other printed products for election events. The roll information in RMS is also used to undertake provisional vote checking and confirming that candidates have the relevant entitlements to be nominated. For local government postal elections, the RMS is used to record any ballot paper redirection address, so that this information can be included on the relevant roll.

Beyond State and local government elections, the RMS is also used to support liquor licensing polls for the purposes of the Liquor Control Reform Act. The system is used to create certain neighbourhood zones to create a roll. At times, RMS electorates or roll data are also used for other electoral activities, such as municipal polls or plebiscites.

If the VEC no longer maintains its own RMS and instead relies on a national RMS, these critical systems linkages will need to be rebuilt. The VEC has introduced a number of systems and treatments to reduce their dependencies. However, moving to a national roll system at this time could potentially add to complexities, with the level of complexity depending on the design and operating model of the NEP hosted RMS.

#### Compliance activities

Certain compliance activities of the VEC rely on access to the RMS. For example, the objective of the Electoral Regulations 2012 is to facilitate the enrolment of electors and the conduct of State parliamentary elections. These regulations outline the enrolment procedures that the VEC is required to undertake and include a number of prescribed mechanisms and details that are required in the enrolment of an elector. These requirements, along with the VEC having access to and ownership of the Victorian register of electors, assists the VEC to uphold the integrity of elections in Victoria.

For example, Form A as prescribed in the Electoral Regulations 2012 requires the person who is enrolling on the Victorian register of electors to provide evidence of identity, and it also requires a signature. The enrolment form signature is utilised throughout the electoral cycle, particularly with respect to postal voting (the voting mechanism as prescribed under the LG Act). This requirement allows the VEC to proactively detect potential incidents of contravention of electoral legislation, as well as undertake other integrity work.

During the 2020 local government elections, as part of standard integrity checks the VEC compared the signatures of voters from their voting declarations with the signatures on their enrolment forms. The outcome of the checking process resulted in police inquiries and the enrolment form comparisons are included as evidence in both.

The use of the RMS is also relevant to the VEC's enforcement activities. Prior to sending out a notice during enforcement activities (either an apparent failure to vote notice, penalty notice, penalty reminder notice) or preparing the final court file, a roll update process is completed where the EMS would source updated address information from the RMS, so that correspondence is sent to the elector's current address.

The VEC notes that any harmonisation of electoral laws will need to account for the flow-on effects on the use of regulations and the register of electors by the VEC to undertake electoral integrity and security work related to the provision of election events.

#### Elector-centric approach of the VEC

The RMS is an important database to the VEC, as it not only provides roll data, but also important information such as contact information of electors that allows the VEC to effectively communicate with electors. The strategic approach to effective communication with electors is captured in the VEC's Stakeholder Management Framework, Corporate Communication Framework and IT Elector-Centric Architecture. The RMS is effectively one of the most important databases the VEC has and it cannot be abraded by creating a separate customer relationship database, which would also pose information security concerns. This approach is also consistent with the Victorian Government's IT Strategy and supported by research conducted by the VEC.

The VEC has already invested in business requirements for the new Victorian RMS to capture the VEC's aim to continue down this approach, and the VEC has presented this planned approach to other electoral commissions. The business requirements have also captured an ability to authenticate electors as they update their enrolment information, perhaps paving the way for the VEC to provide electronic ballot papers possibly in the future for major electoral events. There is no guarantee that a national RMS would be able to support the business requirements set out by the VEC.

For example, the VEC's ability to utilise the VoterAlert system to provide timely updates and inform electors of urgent changes, such as a change in voting deadline, is inextricably linked to the VEC being able to access the necessary contact information through RMS on a real-time basis. The recent South Gippsland Shire Council election had circumstances requiring this advantage to quickly inform voters of an extended voting deadline. Depending on the design of a national RMS, all enrolment information may be held in the national database, and the VEC may not have real-time access to the information. The VEC may not be able to access this information as directly as it is now, which may cause unnecessary delay and potentially compromise an election.

## Part 3 – Electoral integrity and security

### The VEC's perspective of electoral integrity and security

The VEC operates in an increasingly dynamic and complex electoral environment. Victoria adds around 300,000 new electors to the electoral roll every 4 years, (outside the COVID-19 environment) with a significant number of people who are diverse in culture, language, levels of literacy and confidence in the democratic process.

The various types of threats to Victoria's democratic process in this dynamic environment may include malicious cyber activities, threats to physical and human security, electoral fraud, foreign interference and disinformation. In all aspects of Victorian state and local government elections, there is also increased public expectation in fast results, electoral integrity, security, transparency, as well as proper funding of political parties.<sup>19</sup>

These expectations are reflected in the VEC's continuous focus on building and maintaining integrity in all electoral processes. In addition to the VEC committing to investing in the replacement of Victoria's RMS, as discussed in Part 2 of this submission, the VEC is investing in strengthening overall electoral compliance, enforcement and regulatory activities to protect and strengthen the integrity of Victoria's electoral processes.

The VEC notes that the EMC is interested in exploring the security and integrity of Victoria's electoral systems in general. This part of the submission seeks to provide an overview of the integrity practices, security policies and processes the VEC is investing in to meet the integrity and security challenges in an increasingly dynamic electoral environment.

### Electoral compliance and integrity projects implemented by the VEC

In healthy democracies, electoral management bodies do not measure their performance by political outcomes, but rather their ability to conduct elections using accountable and transparent processes. As the electoral management body responsible for Victorian State and local government elections, the VEC incorporates a culture of compliance and integrity across all its functions to ensure accountable and transparent practices.

Over the last 8 years the VEC has set about modernising its electoral compliance and integrity approaches, partly in response to major shifts in the electoral environment.

### Integrity outcomes and measures

During the 2020 local government elections, the VEC employed a holistic approach to planning, monitoring and managing electoral integrity through an electoral integrity project. The electoral integrity project focussed on the identification and management of integrity checkpoints across three target areas: results integrity, election office integrity and VEC head office electoral integrity. A team of specialists was responsible for tracking integrity performance against four pillars of integrity: statutory compliance, dependency and resource management, expectations management and performance evaluation.

The project revealed that the VEC adopts healthy integrity practices and demonstrates high levels of compliance in all target areas. While the integrity specialists made some

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<sup>19</sup> Victorian Electoral Commission, *Strategy 2023* (July 2018) 3-4.

recommendations to streamline practices and strengthen the collection of integrity information, no major integrity concerns were identified.

## **Electoral Integrity Assurance Taskforce**

The VEC is working with the Electoral Integrity Assurance Taskforce (EIAT), which was established in 2018 to provide guidance and expertise on the broad range of integrity and issues within the Australian electoral environment, including cyber or physical security incidents, disinformation, misinformation, and perceived or actual foreign interference in electoral processes. The EIAT comprises several Commonwealth agencies that provide guidance and expertise on such threats.

Agencies operate within their existing remits and resources to support the operation of the EIAT. The EIAT uses a referral process to ensure information is passed to the relevant agency, including the VEC, to consider appropriate action.

Upon request, the EIAT provides information and advice to State and Territory electoral commissioners on threats to the integrity of State and local government elections.

## **Strengthening electoral integrity partnerships**

The VEC established a dedicated electoral integrity unit in October 2019 to coordinate the organisation's ongoing investment into stronger electoral compliance and integrity practices. The unit responds to the increased governance and reporting overheads involved with building and maintaining electoral compliance and integrity frameworks, allows for a consistent and robust regulatory approach, and links electoral activities, initiatives, programs and projects with fit-for-purpose tools for evaluation, continuous improvement and integrity monitoring.

## **Strengthening assurance processes for ballot paper security**

On 10 October 2013, nearly five weeks after polling day at the 2013 Federal election, the AEC directed a recount of the Western Australia Senate ballot papers marked above-the-line. During that process, 1,370 votes which had been initially counted could not be located.<sup>20</sup> The issue prompted several inquiries, and the High Court of Australia (sitting as the Court of Disputed Returns) eventually declared the Western Australian Senate election void and ordered a special election.<sup>21</sup>

It is unnecessary for this submission to detail the factors that were found to have contributed to the misplaced ballot papers, although the report from the inquiry by former Australian Federal Police Commissioner M J Keelty AO (the Keelty report) offered sobering reading for all electoral administrators.<sup>22</sup> However, following the release of the Keelty report, the VEC initiated a complete review of ballot paper movement, security and reconciliation, and implemented a number of additional assurance measures for the 2014 State election. These measures included:

<sup>20</sup> Australian Electoral Commission, *Inquiry into the 2013 WA Senate Election* (Final Report, December 2013) 14, Retrieved 3 October 2021. <[https://www.aec.gov.au/About\\_AEC/Publications/files/inquiry-into-the-2013-wa-senate-election.pdf](https://www.aec.gov.au/About_AEC/Publications/files/inquiry-into-the-2013-wa-senate-election.pdf)> ("Keelty report")

<sup>21</sup> *Australian Electoral Commission v Johnston* (2014) 251 CLR 463 (Court of Disputed Returns).

<sup>22</sup> See Keelty report.

- identifying and reducing unnecessary ballot paper movement
- improving incoming and outgoing reconciliation and tracking processes for transferring sealed ballot paper parcels
- reviewing security seals, and introducing tamper-evident tape for used and unused ballot paper parcels
- Updating election accommodation requirements to ensure dedicated secure zones for storing ballot papers and other electoral records by way of lockable rooms or security cages.

These measures were rolled out successfully for the 2014 State election and have been enhanced through more recent elections as a result of feedback from election managers and others involved in the workflow and supply chain for preparing and conducting elections.

## Political funding and disclosure laws

Political funding and donation disclosure laws are now in place in most Australian electoral jurisdictions. In general terms, the various regimes in each jurisdiction are administered and regulated by their respective electoral commission and require the political donation activity to be publicly registered.

The *Electoral Legislation Amendment Act 2018* introduced political funding and donation disclosure laws for Victorian parliamentary elections. The laws commenced progressively from August 2018 so that the entire scheme came into force on the day after the 2018 State election. The 2022 State election will be the first general election for the new laws.

Although funding and disclosure laws are not necessarily in the scope of the EMC's inquiry, the VEC acknowledges that funding and disclosure laws provide important additional integrity tools. The Electoral Act requires an independent review of the operation of Victoria's funding and disclosure laws to be conducted by an expert panel within 12 months of the 2022 State election.<sup>23</sup>

## The VEC's response to emerging integrity challenges

Given the fact that enrolment and voting is mandatory in all levels of elections in Victoria, there is an obligation upon the VEC to ensure that its services, communication and products are accessible, elector-centric and efficient. The VEC has committed to addressing emerging challenges, as well as understanding voter experiences, expectations and behaviour, including the completion of a customer journey mapping project in June 2021.

### Capacity building to respond to legal challenges

With a more dynamic and complex electoral environment and a growing population, there has been a consistent upward trend in instances of complaints and legal challenges to decisions made by the VEC during elections. Complaints and legal challenges are one of the processes through which the public can test the VEC's transparency and integrity. The accessibility of these processes and the VEC's capacity to actively and appropriately respond is therefore

<sup>23</sup> *Electoral Act 2002* (Vic), ss 222DB-222DC.

crucial for maintaining trust in the electoral system. For this reason, the VEC has invested in modernising its complaints process and building capability within the organisation to support, respond to and learn from complaints and legal challenges.

In 2020 the VEC launched an online feedback/complaints form via the VEC website. The form increased the accessibility of the complaints process, including making it possible to submit anonymous feedback.

The VEC is also strengthening its capability to manage and respond to legal challenges that arise during live election events.

## Understanding elector expectations

The dissemination of misinformation and disinformation has been identified as threats to electoral processes globally. Recent VEC research indicates that electors are increasingly looking for simple and intuitive interactions and confirmations wherever possible, preferably on a digital platform.<sup>24</sup> The research also highlighted the fact that electors prefer timely digital alerts and information relating to electoral events. Providing timely information that electors need to be aware of to ensure their effective electoral participation is challenging due to:

- increasingly fragmented media channels and the near impossibility of advertising cut-through (television and digital in particular),<sup>25</sup>
- vast reduction in people buying paper copies of newspapers and instead preferring the online versions,<sup>26</sup>
- changing business model of Australia Post in terms of reduced mail and extended delivery times,<sup>27</sup>
- associated reduction of people regularly checking their letterboxes for mail,<sup>28</sup> and
- increasingly multicultural nature of Victoria's population.<sup>29</sup>

Electoral commissions across Australia and New Zealand are aware of this risk and have been working closely to address this emerging threat.<sup>30</sup>

<sup>24</sup> VEC Voter Expectations Survey – September 2021

<sup>25</sup> S. Park, C. Fisher, G. Fuller, G. & J.Y. Lee, *Digital News Report: Australia 2018*, News and Media Research Centre, University of Canberra, 2018.

<sup>26</sup> [Newspapers in Australia - statistics & facts | Statista](#), Christopher Hughes, 30 July 2021

<sup>27</sup> [Meeting the needs of our customers - Australia Post Annual Report 2014 \(auspost.com.au\)](#)

<sup>28</sup> 77% of non-voters replied that they read at least some mail, but only 41% read all or some of the mail - *Understanding Non-Voters of the 2018 Victorian State Election*, Social Research Centre, 2020, p. 21.

<sup>29</sup> Australian Bureau of Statistics 2017 Census media release, 27 June 2017 -28% of Victorians reported being born overseas on the 2016 Census – more than ever before and an increase from 26% in 2011

<sup>30</sup> The ECANZ, led by the AEC, along with the Digital Industry Group Inc. (DiGi) having been working together since 2019 to develop a non-legally binding online media elections protocol for online platforms.

The EMC has recently reported on its Inquiry into the impact of social media on Victorian elections and Victoria's electoral administration.<sup>31</sup> The VEC will respond to the EMC's recommendations in due course.

## **Elector-centric communication strategy**

Elector expectations and behaviour are evolving. This introduces new integrity challenges for the VEC, both in terms of anticipating and responding to these changing expectations and behaviour where possible and managing expectations where change is not possible. Given the fact that enrolment and voting are mandatory in all levels of elections in Victoria, there is an obligation upon the VEC to ensure that its services, communication and products are accessible, elector-centric and efficient. Effective communication from a trusted source is particularly important to address the integrity threat of disinformation.

A recent customer journey mapping research project indicates that electors are seeking increased innovation and service delivery when it comes to elections, particularly in relation to being able to transact and communicate online, with confirmation points to advise that they have transacted correctly.

The VEC has identified and proven the benefits of direct messaging electors (by email and SMS). Around half (about 2 million) of those on the Victorian electoral register have signed up for the VEC's VoterAlert service. The optimum process the VEC has followed includes setting a flag on the elector's enrolment record, which indicates their approval to send messaging and shows their communication preferences, including email, SMS or both. The majority of those registered for VoterAlert choose to receive both, which is ideal as the VEC can alert them with a short text message and then an email can provide a greater level of detail.<sup>32</sup> Having this functionality, enables the VEC to send alerts, reminders, e-newsletters and voting guides in a direct digital manner.

In response to the research conducted, the VEC intends to send an electronic EasyVote Guide to those registered for VoterAlert for the 2022 State election. The Guide will provide links to explanatory videos, voting options and an update of electoral boundaries resulting from the 2021 State Redivision process. The VEC notes that the activity depends on the ability to use the VEC's RMS, from which lists of VoterAlert subscribers can readily be extracted.<sup>33</sup>

Responsive and tailored communications improve engagement by electors, enabling more voters to understand how to effectively participate in the electoral process. Ultimately, this contributes to improving electoral integrity. The VEC notes that these activities, including the use of VoterAlert, would not be possible without the use of systems that are linked to Victoria's RMS.

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<sup>31</sup> Electoral Matters Committee, Parliament of Victoria, *Inquiry into the Impact of Social Media on Elections and Electoral Administration* (Final Report, September 2021).

<sup>32</sup> The opt-out rate for VoterAlert is less than 2% per send. VoterAlert was used at the 2020 local government elections and played a key role in attaining the best ever participation rate in these elections and a decrease in informality.

<sup>33</sup> Electors can be identified down to council ward level through the RMS. This was critical in the 2020 local government elections when the VEC had to advise time sensitive information to voters in one ward. The VEC will be running a campaign to increase the registration of electors for whom it does not currently have contact details to encourage them to register for VoterAlert.

## Strengthening electoral compliance education

The systems of democracy are only compliant once all stakeholders are aware of, engage with and meet their obligations. Electoral laws impose obligations on all those involved with elections, including electoral administrators (i.e. the VEC and election staff), participants (i.e. candidates, political parties), and electors and the electorate more broadly. The VEC is aiming to increase awareness and understanding of Victoria's democracy, what it means and how it applies to electors and candidates and the way the VEC administers the election.<sup>34</sup> Ultimately this will empower voters to understand the different actors and their responsibilities so that they can pursue issues through the correct channels should their expectations not be met. This will be a focus of the 2022 State election.

The VEC provides a range of resources to inform, educate and support electoral participants to understand their electoral obligations, including:

- a birthday card and election information leaflet for citizens turning 17 years old who become eligible to provisionally enrol to vote in Victoria,
- candidate information products detailing the requirements that apply to candidates for State and local government elections, as well as other targeted briefing material for registered political parties ahead of each State election,
- the VoterAlert service to communicate directly with electors (by email and SMS) on key electoral matters, and provide voting reminders and advice on voting options
- information and resources developed for particular groups, including election information presented in-language and in Easy English, factsheets on political donation disclosure obligations, as well as the VEC's Democracy Ambassadors program.

Initiatives such as the above improve electoral integrity by improving stakeholders' compliance. For example, by reducing informal voting and improving compliance with funding and disclosure obligations in relation to political donations.

## Electoral compliance and integrity frameworks

As the electoral environment changes, the VEC's administrative and regulatory responsibilities are changing too. In mid-2021, the VEC commenced discovery work for electoral compliance and integrity frameworks to guide future electoral programs.

The electoral compliance and integrity frameworks are planned to engage across the VEC's work programs and monitor the performance of those programs against identified integrity targets and measures. While the electoral integrity framework looks internally at the VEC's program design and delivery, the electoral compliance framework is being developed from electoral obligations that exist in Victoria. It will be a valuable resource to define the VEC's regulatory activities externally in addition to internal compliance.

These frameworks are scheduled to be delivered for the 2022 State election and will be adapted for long-term application from the 2022 baseline. This is all part of the VEC's efforts

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<sup>34</sup> These activities include inclusion, education, other outreach work, and advertising activities around major election events.

to continue strengthening its electoral integrity partnerships and protect the integrity of Victoria's democracy.

## RMS security

The VEC has a number of significant controls in place with regards to the security of the Victorian RMS, including: the registrar of electors determining access and permission requirements; ongoing assurance and monitoring activities related to access and permissions; and that all VEC staff are bound by the VPS code of conduct and VEC data privacy policies.

The VEC's ability to ensure the privacy and integrity of the RMS data could potentially be compromised if Victoria was to move to a national RMS managed by an organisation other than the VEC. The VEC urges the EMC to seriously consider the benefits to Victoria in having the VEC to continue to be able to manage and authorise access to Victorian enrolment data (one of the most "complete" data sets about Victorians).

### RMS security and assurance

The VEC has a number of controls in place with respect to accessing the RMS.

- RMS access and permissions are only provided to users that the registrar of electors authorises.
- RMS is an application that needs to be installed locally on an authorised computer; there is currently no cloud access or remote access capability.
- Access to the RMS is permission-based. There are a number of permission levels ranging from read only access, to being able to view licence and silent elector information. Permission is provided based on role requirements and is reviewed when the individual granted permission moves or changes roles.
- Ongoing RMS user access and permissions are monitored weekly. This includes confirming that permissions are applied correctly. The VEC also undertakes a review of records accessed by authorised users to ensure access is being utilised appropriately.
- All VEC staff are covered and bound by the Victoria Public Sector code of conduct and VEC data privacy laws policies.

The current security and assurance process ensures that the VEC is at all times aware of who is accessing the system, in what context and for what purpose. Should the State electoral roll move to a national electoral roll platform, security and assurance with respect to authorised users in accessing the system will be moved outside of the control of the VEC.

For now, the VEC can determine all access requirements, including those of IT resources to support RMS, through to the employees able to access silent elector information. These regular audits and reviews ensure that any access to the RMS is up to date. The VEC is concerned that this oversight can be minimised if the management and accountability for the electoral roll is removed from the VEC, which will affect the VEC's autonomy and independence.

## Security and access to other critical systems

To support the provision of roll products and enrolment data to external organisations or individuals, the VEC utilises a data exchange system (DEX) that is owned by Accellion. It is a secure data exchange platform that is used by the VEC to share information with external stakeholders such as members of parliament. To be able to use DEX, either for sending or receiving information, users must be given access by the VEC.

While access to DEX does not provide access to the RMS, it does provide access to targeted enrolment related data, for example, a roll product or specific enrolment dataset.

The VEC ensures that access to DEX is restricted to those staff that require access for the purposes of their role. As the application is largely used for enrolment related data, the system is owned by the Roll Production, Systems and Compliance team within the Enrolment Branch. This means there is still oversight by the registrar of electors with respect to this system and access.

The VEC is of the view that any movement to a national electoral roll platform would also need to consider the systems utilised in the transfer of enrolment data and roll products information to external parties and the potential impact on the VEC's independence if Victoria's RMS is no longer under VEC control.

## Physical security

Physical security and integrity are critical aspects of the VEC's election design for State and local government elections. Election materials of critical value, such as ballot papers and certified copies of rolls (both paper and electronic) are strictly controlled throughout each election event timeline.

## Election Offices and voting operations

All Senior Election Officials employed by the VEC are required to pass the requirements of disclosure of political activities. In local government elections in 2020, Senior Election Officials were also required to undergo a police check. They receive training in electoral integrity, including physical and cyber security requirements. Procedural products also cover these requirements.

Perimeter locks are changed on all Election Offices and Early Voting Centre locations prior to use. In sourcing these premises consideration is given to whether there are lockable internal rooms for storage of sensitive election materials such as ballot papers, electronic devices, and electoral rolls. Where lockable internal space is insufficient the VEC provides lockable steel cages. In either scenario the VEC is the sole custodian of keys to access the venue and internal storage.

Access to secure zones (lockable rooms, security cabinets or cages) within venues is procedurally controlled and sensitive items removed or returned are tracked using control forms. For those venues used only on Election Day, sensitive materials are only present during the hours of operation and never stored overnight. At the conclusion of Election Day, ballot materials and all paperwork relevant to the operation of each venue is packaged in secure parcels with security seals and returned to the election office. A reconciliation of all

returned materials is undertaken at the election office prior to being securely stored until next requiring access.

Computers in use to support voting activities require unique user log-ons and passwords and must be locked when not in use. Permissions are applied so that staff can only access applications and information appropriate to their role and are unable to disable or reconfigure security settings. All staff sign a declaration acknowledging that they will only use information such as roll data for the purpose of performing their role and are made aware of the penalties for misuse.

Election offices are supported by Election Support Officers, a team of experienced staff based in Head Office who administer integrity checks and act in an advisory capacity for the entire election period. It is also important to note that during certain election activities, candidates at the election may appoint one or more scrutineers to observe extraction and counting activities undertaken by staff. Scrutineers are also able to observe that relevant security measures are in place and being followed during the election.

## **Centralised operations**

The VEC conducts some aspects of electoral events centrally, including postal voting services for State elections and computerised counting. These venues typically deal with ballot materials for more than one electoral area and have additional security elements in place. Permanent VEC staff are operational leaders and entry is limited to authorised staff and scrutineers. As operations in these venues run over multiple days security guards are in place overnight as an additional layer of physical security.

Where computerised counting occurs ballot papers are batched for the purpose of data entry and tracking. Each batch undergoes double blind data entry to ensure the accuracy and integrity of the results. The VEC computer count system prevents the same operator from entering the same batch twice. Various tracking and audit reports are available to the count supervisor and scrutineers as required. As per arrangements in other venues ballot material is securely stored when not in use.

Permanent VEC staff are also onsite to oversee and ensure compliance at contractor sites responsible for print production of ballot papers and certified rolls and mail house operations. Thorough production reconciliation occurs for each of these activities.

## **Ballot material tracking and reconciliation**

Ballot papers and other accountable election materials are transported to election offices in security sealed and tamper-evident packaging. Dedicated delivery vehicles are used and live tracking is available via a web portal. In addition, a proof of delivery email is provided to the VEC warehouse confirming the consignment has been delivered. A minimum of two delivery staff accompany each dispatch so that ballot material is never left unattended in the vehicle. Delivery staff are briefed on requirements prior to the handling of any ballot material. Generally delivery is direct and received the same day. If it is unavoidable that material needs to be stored overnight, this must occur in a secure depot facility with CCTV facilities.

Each Election Manager maintains an account of ballot papers which details all ballot papers received from printers, the VEC warehouse, other election offices, or locally printed. The account of ballot papers is updated by the Election Manager when the material is received and when being allocated to voting locations. Each transfer is accompanied by paperwork

detailing exactly the contents. A copy of this paperwork is also retained by the sending location in a ballot material control folder.

Where the material is required to be transferred between election offices this is done by VEC staff or the contracted logistics provider, who is subject to contractual requirements for handling and transfer of election material. Each transfer is accompanied by tracking paperwork.

Between activities, ballot papers are stored in security boxes with plastic security seals. Records of seal numbers are checked prior to opening by electoral officials and these records are retained. Wherever possible seals are only broken in the presence of scrutineers.

A full reconciliation of all ballot papers, both counted and unused, is undertaken for each location. The VEC's EMS produces reports which detail differences in upper and lower house counts. Figures from electronic mark off and information from election official returns also form part of a comprehensive reconciliation exercise. Any discrepancies are investigated and resolved prior to the finalisation of the election.

In accordance with the Electoral Act, election material is retained at the VEC warehouse until such time as it is due to be destroyed. The warehouse is protected by a monitored security system with CCTV and lockable electric gates that secure the premises at night. Where practicable, all roller doors remain down when live ballot material is on site.

## Human security

Along with physical security, human security is also an integral part of ensuring the integrity of Victoria's electoral systems. Election venues are often crowded places that require investments to ensure the safe conduct of election activities. As operators of crowded places, the VEC takes steps to ensure the safety of people that work, use or visit the VEC's sites from a range of threats, including terrorism.

## Ongoing monitoring and intelligence

Ongoing monitoring and intelligence are essential to ensure that the VEC is aware of any developments that may impact the operation of election venues and the running of the public event.

The availability of up to date information regarding security issues is considered an essential part of the VEC's overall approach of developing risk mitigation strategies. The VEC maintains ongoing relationships with the Australian Security Intelligence Organisation (ASIO) and Victoria Police to plan appropriate strategies in response to credible information to ensure the safety of staff and electors at election events.

The VEC's infrastructure program during elections is informed by the ASIO's Crowded Places Strategy.<sup>35</sup>

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<sup>35</sup> Australia-New Zealand Counter-Terrorism Committee, *Australia's Strategy for Protecting Crowded Places from Terrorism* (Report, 2017).

## Staff training on emergency response procedures

The VEC has emergency response procedures in place for the management and response to potential emergencies. These procedures are used to guide staff to effectively control most emergency situations that may arise and assist in the efficient and safe evacuation of persons onsite. These situations include fire, leakage of gas or hazardous chemicals, armed intruder/s, suspicious behaviour, various kinds of telephone and written threats, and more.

The VEC provides training in relation to OH&S and emergency response procedures to staff appointed to election venues and its head office. At each VEC election venue, there is an appointed manager responsible for the operations inside the venue. Emergency response procedures lanyards are issued to the appointed manager and must be worn at all times. The lanyard contains an information booklet that is intended to provide the appointed manager with a quick reference guide outlining appropriate responses to emergency situations.

The VEC reviews these procedures annually, and in the case of election venues, prior to each major election event to ensure they are up-to-date.

## Venues review and operation

During the review and selection of election venues, the VEC captures critical venue information to assist with the evaluation of potential offices and to identify key safety information. This information includes evacuation paths and emergency evacuation points for the venue.

## Engagement with Victoria Police

Victoria Police provides critical support to maintaining human security during the VEC's election operations. The VEC has an ongoing partnership with Victoria Police, which has traditionally scaled up during major elections in response to the number and distribution of election venues across the State. In preparing for future elections, including the 2022 State election, both agencies are continuing to work together to share information more regularly and apply lessons learned from previous major election events.

# Cyber and information security

## Security classification

Victorian Government departments recognise the high value of the register of electors and the system, RMS, that stores the elector data and other relevant information.

The security classification of all and aggregated roll data contained in RMS is PROTECTED.

This is based on the definition used with respect to RMS, being a collection that includes:

- the storage and the systems that hold and manipulate information
- data received from third parties that contributes to the register of electors
- active and inactive elector information including historical data
- roll products derived from the elector information.

The VEC will use the security classification and a risk-based approach in any work that uses or impacts the register of electors or RMS.

## Security strategies

The VEC security program is agreed by the VEC security committee and endorsed by Executive Management Group. The program is built to ensure the VEC meets legislative and industry obligations and addresses internal audit outcomes. Legislation that informs security activities differs across jurisdictions.

The VEC is supported by external partners and regulators: Office of the Victorian Information Commission (OVIC), and the Australian Cyber Security Centre (ACSC).

Under the *Privacy and Data Protection Act 2014*, the VEC is obligated to implement the Victorian Protective Data Security standards (VPDSS) issued by OVIC.

The ACSC has developed prioritised mitigation and prevention strategies to help organisations protect themselves against various cyber threats. The most effective of these mitigation strategies are the ASD8 Strategies.<sup>36</sup> The mitigation strategies that constitute the ASD8 are application control, patch applications, configure Microsoft Office macro settings, user application hardening, restrict administrative privileges, patch operating systems, multi-factor authentication and regular backups.

The VEC's journey to implement ASD8 began in early 2018. Significant work had been completed over several phases with critical strategies and controls to be implemented for the 2018 State election. The VEC successfully implemented 7 of the ASD8 strategies and partially implemented one remaining strategy by early 2021. The VEC is committed to fully implement the remaining strategy. This has placed the VEC's cyber security posture in a very strong position to protect the VEC's information and systems against more advanced, sophisticated, and adaptive adversaries.

As a result of the COVID-19 pandemic, the number of individuals who work from home has greatly increased. Today's threat landscape must include personal computing assets as high-risk and high-value targets. The VEC has implemented a Zero Trust network security model, based on a strict identity verification process. The framework dictates that only authenticated and authorized users and devices can access applications and data. At the same time, it protects those applications and users from advanced threats on the Internet.

## Security governance

In addition to the implementation of ASD8 strategies and controls and VPDSS, the VEC has well-defined security governance with policies and procedures that are tailored for the prevailing operating environment.

The VEC achieved good governance by increasing maturity against the Victorian Protective Data Security Framework (VPDSF) and the Victorian Protective Data Security Standards (VPDSS). The VPDSF and VPDSS are aligned with the international standards for information security (aka ISO27001) and designed to safeguard information assets and systems in a way that is proportionate to threats and supportive of business outcomes. The VPDSS and VPDSF

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<sup>36</sup> ASD8 is recommended by ACSC and the Australian Signal Directorate (ASD). The details of ASD8 are available through the ASD. [Essential Eight | Cyber.gov.au](https://www.cyber.gov.au/essential-eight)

are a combination of procedural, information, personnel, information communications technology and physical security measures that are used to protect information assets against a range of security threats. Some of the most important elements of the VPDSF and VPDS that the VEC has implemented are incident management processes, risk management processes, security roles and responsibilities and various policies and procedures for usage and management of information assets and systems.

Further, the VEC uses information management principles to inform policy and practice. The principles ensure information is recognised as a VEC asset, the asset is managed in accordance with risk and obligations, access is appropriately managed, and the VEC recognise its obligations are extended to external parties.

## **Security awareness**

The importance of the VEC's employee's security training and awareness cannot be overemphasized when it comes to protecting the organisation against security threats and reducing risks.

The VEC has mandatory security education and undertakes regular cyber security awareness campaigns. A recent security awareness test confirmed a large majority of VEC employees are well-aware of security threats.

## **Continuous improvement**

The VEC recognises that the security threat landscape changes quickly and the organisation must be proactive in protecting itself and the electoral data it holds against new threats. The VEC collaborates closely with regulators and external organisations such as OVIC and ACSC to learn more about new trends, threats, and mitigation strategies. The VEC has established an improvement program and a dedicated security team. It has also invested in new cyber security management technologies, while continually reviewing, monitoring, assessing and improving its security posture and processes to mitigate new threats.

## Appendix: Legislative obligations

This document sets out some of the key responsibilities of the VEC under Victorian legislation. The VEC notes that substantial changes to these provisions will be required to enable Victoria to shift to a national RMS, rather than continuing to maintain its own RMS.

### Register of electors

#### Establishment and maintenance of the register of electors

Section 21 of the Electoral Act provides that the VEC must establish, maintain and regularly update a register of electors. Furthermore, there is an additional requirement on the VEC under section 27 of the Electoral Act to regularly review the register of electors and ensure that details entered in the register of electors are accurate.<sup>37</sup>

The VEC notes that the wording in section 21 of the Electoral Act is the most critical aspect of consideration with respect to a national electoral roll platform, and the VEC is of the view **that this is a requirement that cannot be contracted**. When considered alongside other sections within the Act, as well as the Governor in Council Arrangement for a joint electoral enrolment procedure substantial modifications would be required to permit the VEC to consider other organisations to maintain and update the register of electors for Victoria.

#### Requirement on individuals or organisations to provide information to the VEC for the register of electors

The capacity for the VEC to receive data from Births Deaths and Marriages and the Department of Justice and Community Safety, as well as other agencies/individuals/organisations is set out in the Electoral Act. The VEC notes that this is a substantial pillar in the ongoing preparation, maintenance or review of the register of electors. An example of an organisation that provides critical data in this respect is the licence data and associated information that is provided by the Department of Transport.

Under section 26 of the Electoral Act, the Registrar of Births, Deaths and Marriages and the Secretary to the Department of Justice and Community Safety are required to provide information to the VEC to support the preparation, maintenance or review of the register of electors.<sup>38</sup> This includes information relating to the death of each person of the age of 17 years or more, name changes and address of that person; and the provision of information relating to a person who has been convicted in Victoria and is serving a sentence of 5 years imprisonment or more.

Additionally, the VEC has power under this section to request information from:

- a public service body Head within the meaning of the *Public Administration Act 2004*; or
- a Chief Executive Officer appointed by a Council under section 44 of the LG Act; or
- a chief executive officer of a public statutory authority; or

<sup>37</sup> *Electoral Act 2002* (Vic), s 27.

<sup>38</sup> *Electoral Act 2002* (Vic), s 26.

- a police officer; or
- a distribution company or a retailer within the meaning of the *Electricity Industry Act 2000*; or
- an elector or a person qualified to be an elector.<sup>39</sup>

Any person requested by notice under the above section must provide that information within 21 days after the date specified in the notice.<sup>40</sup>

## Enrolment and roll production

### Enrolment responsibility and functions

The VEC is responsible for the administration of the enrolment process and the conduct of parliamentary elections and referendums in Victoria.<sup>41</sup> Enrolment activities ensure that the register of electors is maintained and regularly updated.

Enrolment is managed and maintained through a joint roll agreement with the AEC through a Governor in Council arrangement. This section looks to the provision of mandatory and discretionary enrolment information, and the formal electoral roll production.

### Mandatory provision of enrolment information

The Electoral Act stipulates several circumstances in which electoral information must be made available and the form in which it must be made available.

- The list of Victorian electors (names and addresses only), excluding silent electors, must be made available for public inspection at the offices of the VEC and updated every 6 months. Information can only be searched by name.
- The latest print of any electoral roll produced for an election (which contains name and address details only) must be made available for public inspection, free of charge, at locations and during times determined by the VEC.
- Enrolment information, excluding silent electors, must be provided several times each year (up to 11 times and at the time of an election) to registered political parties, Members of Parliament and election candidates for permitted purposes.<sup>42</sup>

The mandatory provision of enrolment information to other organisations is set out in respective legislation (for example, the Juries Act and the LG Act). The provision of enrolment data to other organisations through these legislative requirements support the organisation to undertake their regulatory or functional objectives.

### *Local government*

Section 254 of the LG Act provides for the release of enrolment information (a copy of the voters' roll) to the Chief Executive Officer (CEO) of a council on request. The voters roll can be used for the purpose of communicating or consulting with the municipal community in relation to the performance of the council's functions. The VEC has released information under this

<sup>39</sup> *Electoral Act 2002* (Vic), s 4(2).

<sup>40</sup> *Electoral Act 2002* (Vic), s 26(5).

<sup>41</sup> *Electoral Act 2002* (Vic), s 8(1).

<sup>42</sup> *Electoral Act 2002* (Vic), s 33.

provision on one occasion since the introduction of the LG Act. The VEC released a copy of a certified voters roll to the CEO of Hume City Council on 17 February 2021. Silent elector information was removed prior to the release of this information.

### *Juries Victoria*

An example of where enrolment information is provided under other legislation is the provision of enrolment data to Juries Victoria. Under section 19 of the Juries Act, the VEC provides lists to Juries Victoria of people who are eligible for jury service, and processes exemptions from jury service on a monthly basis.<sup>43</sup>

### **Discretionary provision of enrolment information**

The Electoral Act strictly regulates the way the VEC collects, uses and discloses enrolment information and ensures that electors' enrolment information is protected and not made freely available to the public. The VEC notes that careful consideration is required to ensure this standard is maintained if the register of electors is managed at a national level,

### *Section 34 of the Electoral Act*

Section 34 of the Electoral Act provides the mechanism under which the VEC may release enrolment information in defined circumstances. The VEC may enter into an information-sharing deed with an applicant. This occurs when the public interest in providing the requested information outweighs the public interest in protecting the privacy of personal information.

In considering the request for enrolment information, the VEC must identify the public interest in providing the requested information. The VEC must consult with the Information Commissioner appointed under the *Freedom of Information Act 1982* on the public interest in protecting the privacy of personal information.<sup>44</sup>

The VEC must then decide on whether the public interest in the provision of the requested information outweighs the public interest in protecting the privacy of personal information in the circumstances. Strict conditions regulate the provision of information and penalties apply for non-compliance or misuse of enrolment information. The VEC notes any harmonisation of legislation with an alternative agency should maintain the oversight of the Victorian Information Commissioner to ensure any release of enrolment information is consistent with Victorian privacy laws and standards. The VEC notes that there are privacy and data protection risks involved if Victoria's roll data is managed by an alternative agency, which is under a different legislative scheme.

In 2020-21, enrolment information was provided to 5 organisations under existing agreements subject to section 34 of the Electoral Act. A standing agreement has been in place with Victoria Police since 2005, which allows immediate secure access to the Victorian register of electors.

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<sup>43</sup> Jury trials were suspended in Victoria until November 2020 to prevent the spread of COVID-19. Prior to this a total of 45 jury rolls were provided under legislation in 2019-20, and a total of 29 jury rolls were provided under this legislation during 2020-21.

<sup>44</sup> The Information Commissioner must be consulted in the Information's Commissioner's capacity under the *Privacy and Data Protection Act 2014*. *Electoral Act 2002* (Vic), s 34(1)(b).

Table 1: Information provided to organisations under section 34 of the Electoral Act, 2020-21

Organisation	Look ups requested	Unsuccessful searches	Information provided
Adoption Information Service (Previously Family Information Networks and Discovery)	113	38	74
Victorian Assisted Reproductive Treatment Authority	80	30	50
State Revenue Office	(List of electors provided monthly)		
BreastScreen	(List of electors within relevant cohort provided quarterly)		
Victoria Police	11,257 searches		

Additionally, the VEC has facilitated larger ad-hoc requests for research or public health related purposes. Previous examples (outside of the 2020/21 year) include the complex provision of enrolment related information to the Beyond Bushfires project; and provision of a list of electors, excluding silent electors in an urgent one-off information sharing arrangement with the then Department of Health and Human Services to assist in the monitoring the progress and impact of COVID-19.

## Roll production responsibility and functions

### *Local government elections*

One of the functions of the VEC is to produce voters' rolls for elections under the LG Act and to assist the Melbourne City Council with the preparation of the voters' roll for that Council under the *City of Melbourne Act 2001*.<sup>45</sup>

The VEC also shares enrolment information with councils for the purposes of Local Government elections. The VEC and councils share enrolment information pursuant to Part 8 of the LG Act, and as required under Regulation 15 of the Local Government (Electoral) Regulations 2020 for the purposes of preparing accurate voters rolls.

### *State Elections*

An electoral roll must be prepared by the VEC as soon as practicable after the close of the roll for an election, or when required under any other act. The electoral roll may be in a form determined by the VEC.<sup>46</sup>

<sup>45</sup> *Electoral Act 2002* (Vic), ss 8(2)(c), 8(2)(ca).

<sup>46</sup> *Electoral Act 2002* (Vic), ss 29(1)(a)-(c).

### *Other elections and polls*

The VEC is required to conduct certain elections and polls. Depending on the legislation, these elections and polls may be partly or wholly funded by the VEC. The VEC also conducts fee-for-service and non-statutory elections that meet certain criteria, including the number of electors, the existence of formal election rules, and election timing.<sup>47</sup>

## **Governor in Council arrangement**

In May 2004, the Governor in Council arrangement was agreed by the Commonwealth and Victoria, which provides the mandate for the VEC and the Commonwealth for a joint electoral enrolment procedure in Victoria.

The arrangement sets out a joint electoral enrolment procedure for the proposes of enrolment for Commonwealth and Victoria elections and the revisions of the rolls under Commonwealth and Victorian legislation. The arrangement forms the basis of the exchange of information needed to support the rolls.

The power of the Governor in Council to enter into an arrangement with the Governor-General of the Commonwealth is embedded in section 20 of the Electoral Act.

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<sup>47</sup> An example of election or poll where the VEC is required to conduct the election or poll, as well as form the roll product, relates to Liquor licencing polls. Under clause 17 of Schedule 3 of the *Liquor Control Reform Act 1998*, the VEC will take a vote for liquor licencing in those areas that are determined as “dry areas” and is also accountable for the provision of the roll for the subsequent poll. In 2019-20, 3 liquor licencing polls were held.



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