



ELECTORAL REGULATION RESEARCH NETWORK/DEMOCRATIC AUDIT OF AUSTRALIA JOINT WORKING PAPER SERIES

ENHANCING LOCAL GOVERNMENT DEMOCRACY: CITY OF MELBOURNE

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Abstract

This paper describes a research project which aims to address the following questions: To what extent does representation in the City of Melbourne reflect ‘democratic principles’?; What are the implications of property franchise for local government in the City of Melbourne?; What reforms would enhance representative democracy for the City of Melbourne?; How should the *City of Melbourne Act 2001* (Vic) be reformed?

Background

The project outlined in this paper investigates the nature of local government democracy in the special case of a capital city. Local government is an under-researched field of scholarship, compared to the plentiful research about the Commonwealth and the States, who are considered to be the main federal partners. However, local government is an integral part of our democratic structure and provides essential services to the public. In addition, there is increasing contemporary interest in local government as was shown by the constitutional referendum on local government, originally proposed to coincide with the 2013 Federal elections.

The operation of local government is complex, with many interest groups advocating and campaigning for councillors to advance their own interests or of those whose interests they represent. There may be more opportunities for participation at the local government level than at State (sub-national) or Commonwealth (national) level. Capital city local governments have special features, especially when they are both the political capital and the polity’s economic centre, as is the City of Melbourne (map – Appendix 2). As they provide facilities and services used by people and organisations beyond the municipal boundaries, questions arise as to how the design and practice of democratic local government can or do accommodate such “foreign” interests.

Since approval of this project, the Victorian Government has announced and commenced its Local Government Electoral Review. Its terms of reference (Appendix 1) raise some similar issues but also extend far beyond the scope of this project.

This project aims to investigate whether and if so to what extent democratic principles are compromised by the City of Melbourne’s multiple franchise which includes a property-based franchise with deeming provisions (to a greater extent than other Victorian local governments) and voting by citizen and non-citizen resident tenants and owner-occupiers. This is very different from the situation at State and Commonwealth level, and in at least some other Australian capital cities. The project will also consider and compare the regulation of interstate capital cities. The principles of democracy will be drawn from literature by Saward, founded in “responsive rule” and the concept of ‘representative democracy’ which incorporates citizen participation and self-representation, focussing on the systemic relationships between institutions (Saward, 2010, p. 167).

The City of Melbourne

The City of Melbourne has an area of 37.6 square kilometres and a resident population of over 100,000 people. Unlike other councils, Melbourne is Victoria's capital city and is the centre of government, business, culture and tourism for Victoria. Around 800,000 people use it as a place to live, work, conduct business or visit each day. More broadly, the capital city is the centre of economic growth in the state and plays a unique role in servicing the larger metropolitan region and its population (Department of Transport Planning and Local Infrastructure 2013).

The City of Melbourne Act 2001 (Vic) provides for Council to have the following objectives

- s.7 (1)(a) to ensure a proper balance within its community between economic, social, environmental and cultural considerations within the context of the City of Melbourne's unique capital city responsibilities;
- (b) to develop and implement strategic directions and policies for the City of Melbourne in collaboration with the Government of the State to ensure alignment with that Government's strategic directions and policies for the City of Melbourne as the capital city of the State of Victoria;
- (c) to co-ordinate with the State and Commonwealth Governments in the planning and delivery of services in the City of Melbourne in which those governments have an interest;
- (d) to work in conjunction with the Government of the State on projects which that Government or the Council determines are significant to Melbourne.

There is great diversity in demographics in the Melbourne local government area, from low cost housing tenants to well-educated high-wealth inner-city dwellers to international students. Furthermore, the number of residents in the City of Melbourne is likely to significantly increase, given the large number of apartment blocks approved to be built in the next few years. Many non-citizens have bought apartments in the city. Accordingly, Melbourne's demographic features are likely to keep changing and evolving. Enabling and encouraging participation in this context is complex.

The Council electoral arrangements (unlike those of other Victorian councils) are as follows:

- The council has a broad voter franchise in which larger numbers of commercial tenants and corporation representatives are included on the voters' roll, as well as residents enrolled from the state roll.
- Voting is compulsory for all voters, even for people who applied for enrolment. The exception is voters aged 70 or over.
- The Lord Mayor and Deputy Lord Mayor are elected as a team by all Melbourne voters using preferential voting.
- The other councillors are currently elected at large by all Melbourne voters using the proportional representation system.
- Candidates may nominate in groups and voters may vote for those groups 'above the line' on the senate-style ballot paper.
- Melbourne is not subject to a regular cycle of reviews of its electoral structure as with other councils' populations (Department of Transport Planning and Local Infrastructure 2013).

Of the 108,434 enrolled voters in 2012, 43,784 were residents (all but 91 of whom were enrolled to vote in the State elections), 40,911 were non-resident owners, 19,799 company representatives (of whom 13,532 were deemed enrolled) and 3,940 business occupiers. These franchises are different

from other Australian capital cities. They are identified by the Discussion Paper as “key issues” (Department of Transport Planning and Local Infrastructure 2013, p.94).

The basis of automatic enrolment of residents, and enrolments of some categories of users of City of Melbourne facilities and services whilst making no provision for others to vote will be among the democratic issues to be considered. We will also examine other forms of participatory relationships in local governance.

Local governance: complex evolving system theory

This project conceives of local governance as a complex evolving system (Mitleton-Kelly 2003, Samaratunge and Coghill Forthcoming 2013). As shown in Figure 1, this takes a systems thinking approach to the socio-political system and conceptualises the society as having three familiar functional, inter-related sectors: the public (state), market and civil society sectors (Polanyi 1957, Boulding 1970, Offe 2000, Paquet 2001).

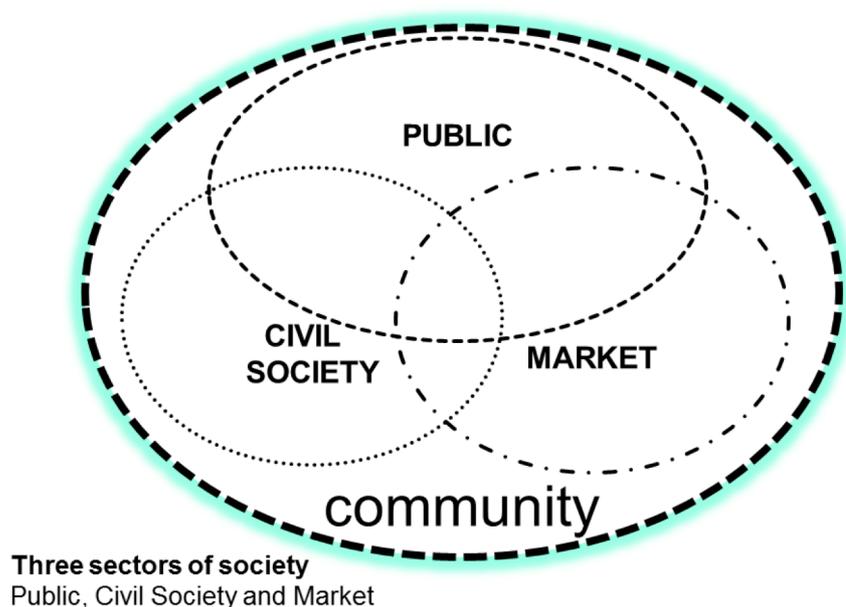


Figure 1. The complex evolving system structure

A number of characteristics of complex evolving systems have been described by Mitleton-Kelly as shown in Figure 2.

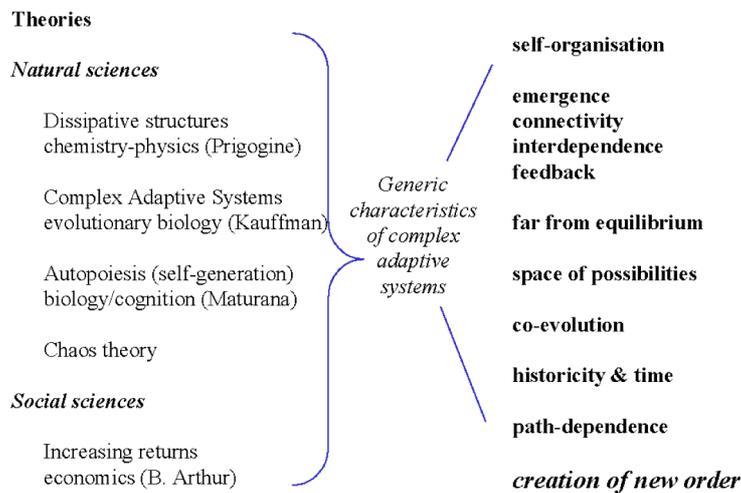
These characteristics help us understand how the inter-relationships between social actors, both individual and organisational, affect the functioning and outcomes of governance. In particular it helps explain that governance is affected by both legal structure and behaviour. This applies to the governance of a local government area as much as to larger scale levels of government.

For the purposes of examination of democratic local government, key among these 10 characteristics are connectivity, inter-dependence, feedback and emergence.

Connectivity

The connections between actors may be as basic as shared language or extend to shared belief systems. ‘Connectivity may also be formal or informal, designed or undesigned, implicit with tacit connections or explicit’ (Mitleton-Kelly, 2003, p. 6). Connectivity through understanding ‘the other’

potentially leads to appreciating beneficial outcomes of value to others (Ostrom, 2005). In local governance, connectivity must provide leadership, forums and other means to build understanding between people, communities and businesses within the local government area, and with those who deal with it (adapted from Samaratunge and Coghill Forthcoming 2013).



Source: Adapted from Mitleton-Kelly 2003

Figure 2. Characteristics of complex evolving systems

Inter-dependence

The actors in a socio-political system are each to a greater or lesser extent dependent on each other. For some the relationship is remote and weak; for others it is asymmetric, as between a disempowered woman in socially isolated circumstances and the Council (Executive Government) responsible for public services on which she relies. The asymmetry is reversed when she exercises her vote! As Mitleton-Kelly (2003) explains:

the greater the interdependence between related systems or entities the wider the ‘ripples’ of perturbation or disturbance of a move or action by any one entity on all the other related entities. Such high degree of dependence may not always have beneficial effects throughout the ecosystem. When one entity tries to improve its fitness or position, this may result in a worsening condition for others. Each ‘improvement’ in one entity therefore may impose associated ‘costs’ on other entities, either within the same system or on other related systems (p. 5).

Positive interdependence should provide for the rights of all sections of the community to be entrenched, secure and treated with respect and dignity. Whilst this is partly normative, it is only partly so (adapted from Samaratunge and Coghill Forthcoming 2013).

Feedback

Mitleton-Kelly expresses feedback in the following way: ‘positive (reinforcing) feedback drives change, and negative (balancing, moderating, or dampening) feedback maintains stability in a system’ (Mitleton-Kelly, 2003, p. 16). We can observe it in political discourse. Negative feedback is likely to discourage a political initiative whereas positive feedback is likely to encourage the political action which it endorses.

Research tells us that people are more satisfied with their lives and with decisions affecting them where they have had opportunities to influence those decisions – not necessarily personally but they

or their peers having had the chance to do so (Frey and Stutzer 2000; Arvai 2003).

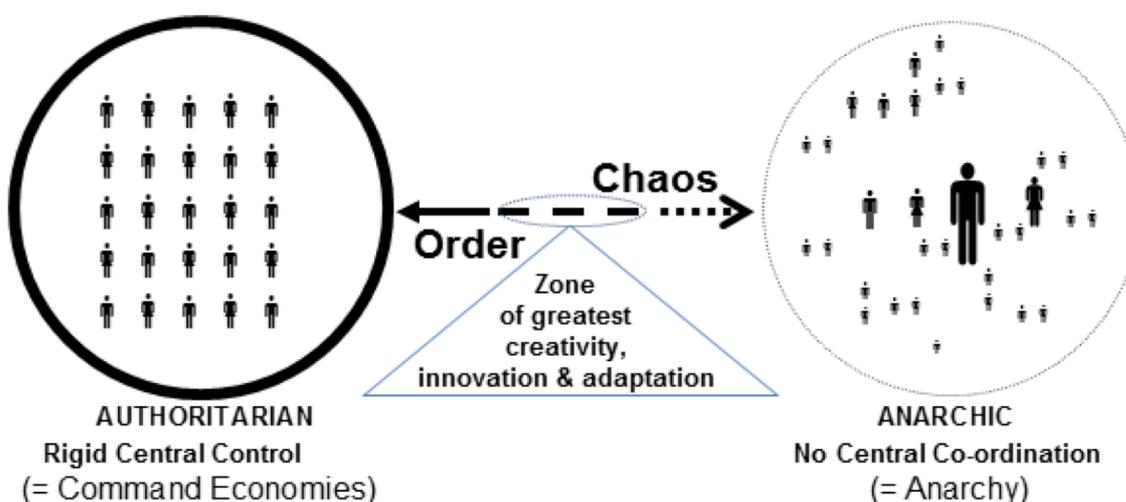
The corollary is that responsibility to foster participation and rights of participation should be entrenched and participation accepted as the default normative practice (adapted from Samaratunge and Coghill Forthcoming 2013).

Emergence

Emergence refers to the potential for new ideas or properties to develop spontaneously from within the system or through interaction with actors (individual or institutional) outside the system. As noted above, emergence is affected by the level of control governing the system and its interactions. Teisman and Edelenbos (2011) have shown that the nature and extent of interactions between actors, including informal interactions, is a key factor affecting the emergence of solutions to policy problems. Where there is a high level of interaction between agencies (through their personnel), solutions are more likely to emerge. Where interactions are more restricted or limited to formal exchanges, better solutions are less likely to emerge (Teisman and Edelenbos, 2011).

Accordingly, the emergence of creative ideas and innovative solutions to unanticipated issues that will arise in years, decades and centuries to come should be facilitated. Teisman and Edelenbos's (2011) findings confirm that these features are as much normative as structural. In the same way, interaction within the polity and indeed with neighbouring national and international polities should be enabled (adapted from Samaratunge and Coghill Forthcoming 2013).

A further characteristic derives from the above. Creativity, innovation and adaptive capacity are optimised in the zone between rigid, comprehensive system controls and an absence of social controls, as illustrated by Figure 3.



Effects of degree of control on adaptation

Figure 3. Effects of degree of social control

The anarchic society on the right reflects the law of increasing returns which occurs in the absence of regulation of the distribution of power i.e. the concentration of power in the hands of its more powerful members, reported by Arthur (Arthur, 1994). Corresponding with this is the finding that there are superior outcomes for societies in which there is an equitable distribution of resources (Wilkinson and Pickett, 2009).

Having regard to these characteristics, we see that governance in the City of Melbourne goes beyond the legal framework such as the distribution of electoral power and also incorporates participatory

behaviour affecting the exercise of other political rights. This leads us to investigate the distribution of power as affected by the multiple franchises regulating the democratic system and other factors affecting influences over policy decisions and implementation in the City of Melbourne.

Research Questions

The project will address the following research questions:

- To what extent does representation in the City of Melbourne reflect ‘democratic principles’?
 - o to what extent is local government in the City of Melbourne equitable and effective?
 - o on what basis should the interests of those other than residents be represented?
 - o what interactions are there between the City Of Melbourne and its stakeholders?
- What are the implications of property franchise for local government in the City of Melbourne? For instance, what are the implications of corporations, groups who own rateable land, and occupiers being able to vote in local government elections?
- What reforms would enhance representative democracy for the City of Melbourne? For instance, are reforms required for the electoral system, processes for community engagement?
- How should the *City of Melbourne Act 2001* (Vic) be reformed?

The stages of project are summarised in Appendix 3.

Boundaries of the Topic

The project will principally focus on the operation of local democracy in the City of Melbourne, with reference to other jurisdictions from interstate and overseas to provide a comparative perspective.

The project is interdisciplinary and provides relevant perspectives from the disciplines of law, political science and public administration.

Contribution to Scholarship

This will be the first known empirical study of the nature of local government democracy in the City of Melbourne. There has been previous research on the history of franchise and electoral arrangements in the City of Melbourne from 1938-2011, which provides a good historical view on the evolution of the City of Melbourne’s franchise (Dunstan & Young, 2011). This will provide a good platform to empirically evaluate the impact on local government democracy.

As the project conceives of local government democracy as a complex evolving system, this project goes beyond the boundaries of legislation and conventional political science perspectives and provides an innovative insight into the operation of local governance in the City of Melbourne.

The empirical aspect of the project will investigate the interactions between interest groups and formal democratic institutions and between interest groups.

This project provides an interdisciplinary perspective as it combines law, politics and public administration. It seeks to fill the gap in the literature.

The project will generate recommendations for reform orientated to enhanced democratic outcomes. It will inform policy-makers about the nature and operation of local government democracy in the City of Melbourne and identify potential reforms.

Literature Review

No literature has been found that addresses the main question to be canvassed (i.e. to what extent is representation in the City of Melbourne is equitable and effective and achieves democratic objectives).

Although there has been literature on local government in the area of political science, little previous research similar to this proposal has been found. A study by Dunstan and Young about the changes of franchise in the City of Melbourne from 1938-2011, provides a good historical overview (Dunstan & Young, 2011). This research seeks to expand on the previous research in more depth using a framework of democratic theory. No examination of local government as a complex evolving system has been found. In addition, no empirical study of the nature proposed by this project is known.

Among the few relevant studies is the Australian Centre of Excellence for Local Government review of recent public inquiries into local government. Those reports do not seem to have addressed the research questions to be examined in this study (Australian Centre of Excellence for Local Government, 2011).

Agranoff (2006, p. 56) studied “14 networks involving federal, state, and local government managers working with nongovernmental organizations. The findings suggest that networks are hardly crowding out the role of public agencies; though they are limited in their decision scope, they can add collaborative public value when approaching nettlesome policy and program problems”. Agranoff’s study touched upon the complexity of the governance system within which local government is embedded, but does not come to grips with it.

In a European study, Kuhlmann (2010, p. 1) “compares local government reforms in three European countries: France, the United Kingdom (England), and Germany. In the analysis, she distinguishes between two different types of reform. Firstly, the vertical dimension of the reform refers to the decentralisation of public tasks from the state/central government to local authorities. Secondly, in an illustration of the horizontal dimension, the readjustment of competencies between local authorities and market or non-profit actors is investigated by focusing on the development of privatisation, corporatisation, and contracting out. The paper pursues the following questions: What effects did the decentralisation and privatisation processes cause in the three countries, and did they contribute to performance improvements at the local level? The author reveals that the anticipated positive outcomes of the reforms have proven to be only partially accurate, and that in many cases unexpected and even rather negative consequences have resulted instead”. The model utilised in this study may be useful as a basic of conceptualising interactions between institutional actors and other persons or bodies in a horizontal and vertical dimension.

Filla (2010) examined “how the institutional rules that govern election structures impact the political behavior of citizens and elected officials beyond the act of voting in local government settings”. This may also provide useful conceptual models for this research.

These several studies lead us to examine local government as part of a complex system, using Mitleton-Kelly’s (2003) “complex evolving systems” theory.

There has been extensive literature on democratic principles and values, but this project will focus on the democratic principles described by Saward (2010), as his concept of ‘representative democracy’ complements the project’s approach to envisage democracy as a system with multiple interest groups interacting dynamically with the institutional actors.

Methodology

This project adopts a comparative and interdisciplinary approach, which involves an adoption of a theoretical framework of local government as a complex, evolving system. Secondary materials are

publicly available on databases, on the City of Melbourne website and in libraries.

The project applies a mixed method approach involving documentary data, survey questionnaires and interviews. Data will be collected from stakeholders involved in the operation of local government democracy, including:

- Chamber of Commerce
- Resident associations
- current/former Ministers and Shadow Minister of Local Government
- current/former Premiers
- Office of Local Government (Vic)
- current/former Mayors and Councillors
- political parties
- special interest groups such as the Victorian Council of Social Service (VCOSS)

Documentary data will include legislative provisions, policies, guidelines and other evidence of the structure and operation of democracy in Melbourne and other capital cities. Ethics approval has been issued by the Monash University Human Research Ethics Committee.

The survey will investigate structural features including satisfaction with the un-subdivided electorate, and the franchises and opportunities for participation in decision-making.

It will also ask respondents to identify social actors significantly involved in governance in the City of Melbourne, their roles and the relationships between them to enable mapping of the system. The survey will also measure satisfaction with the performance of these actors, including the delegation of Councillor responsibilities to council officers.

The interviews will collect qualitative data on the perceptions of selected informants concerning:

- the extent of democracy in the City of Melbourne including its equity and effectiveness;
- opportunities for participation; and
- potential reforms, including the franchises and opportunities for participation, to enhance the functioning of democracy in the City of Melbourne.

The analysis will assess features of governance which affect the functioning of the City of Melbourne as a complex, evolving system and suggest reforms with the potential to enhance its performance.

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Western Australia

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Appendix 1

Department of Transport, Planning and Local Infrastructure (Victoria)

Local Government Electoral Review

Terms of Reference:

1. Electoral Process

Whether improvements can be made to ensure the integrity of the electoral process, including addressing matters raised in the course of the 2012 election including, but not limited to, the following:

- a) candidate integrity including issues regarding ‘dummy’ candidates, information disclosure, existing candidacy requirements, campaign funding and disclosure
- b) the role of the Victorian Electoral Commission in electoral administration and cost implications of this for councils, complaint handling and timeliness in responding.

2. Participation

Whether improvements can be made to ensure the highest level of participation in local government elections, including:

- a) improving public understanding and awareness of elections and candidates
- b) consistency and promoting greater understanding of voter eligibility rules
- c) use of postal and attendance voting and impact on informal voting
- d) franchise and eligibility provisions.

3. Integrity

Whether any other changes can be made that will enhance the integrity of local government elections, candidate conduct and governance.

4. Electoral representation

Whether the current system of electoral representation is appropriate to ensure fairness and consistency of representation within municipalities and between municipalities including:

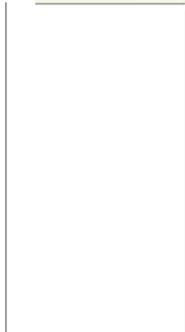
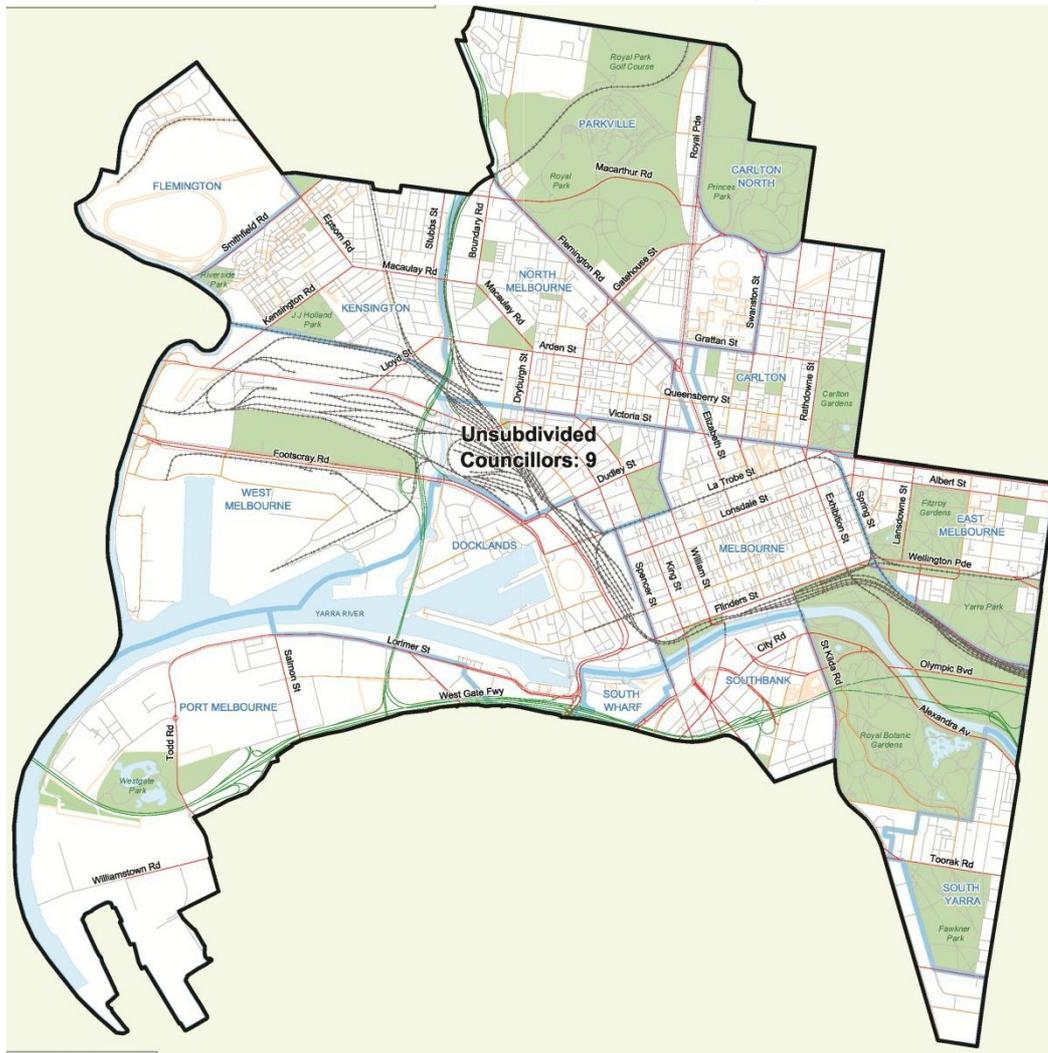
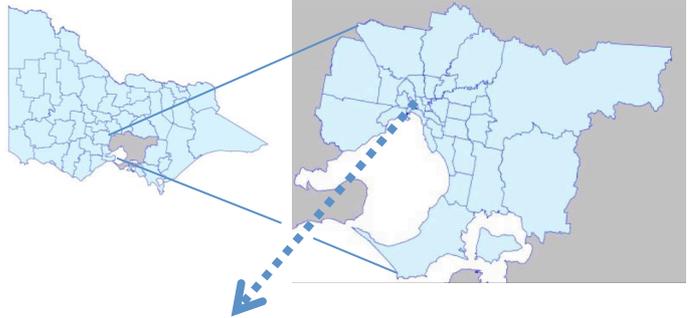
- a) distribution of wards
- b) different ballot counting systems (proportional and preferential) across municipalities.

Appendix 2

Melbourne City Council

ELECTORAL STRUCTURE OF MELBOURNE CITY COUNCIL

NOTE: By Order in Council under section 6A(1) of the City of Melbourne Act 2001 and section 220Q(n) of the Local Government Act 1989, the number of Councillors (not including title Lord Mayor and Deputy Lord Mayor) assigned to the Melbourne City Council are fixed as described in this plan.



Appendix 3

Project Activities and Milestones

<i>Id</i>	<i>Description</i>	<i>Who</i>	<i>Scheduled Start</i>	<i>Scheduled Finish</i>	<i>Predecessor</i>
1.	Project Proposal for August 2013 Workshop	Val & Team (YFN, PTS, KC)	1 st June 2013	9 th August 2013	
2.	Literature Review (resource for Workshop, Conference, Academic article, Final Report)	Val & Team (YFN, PTS, KC)	1 st June 2013	30 th May 2014	
3.	Prepare and Present Paper (UQ in Oct-Nov 2013)	Val & Team (YFN, PTS, KC)	25 th June 2013	1 st November 2013	1, 2
4.	Collect Experiential Data including Interviews / Surveys / Focus Groups (TBC)	Val & Team (YFN, PTS, KC)	25 th August 2013	24 th April 2014	2
5.	Academic Paper (end of project May 2014)	Val & Team (YFN, PTS, KC)	25 th August 2013	30 th May 2014	2, 3, 4
6.	Final Report (approx. 100 pages for end of project May 2014)	Val & Team (YFN, PTS, KC)	25 th August 2013	30 th May 2014	2, 3, 4