

**Submission  
No 28**

## **ADMINISTRATION OF THE 2019 NSW STATE ELECTION**

**Name:** Mr Antony Green  
**Position:** Election Analyst  
**Date Received:** 3 December 2019

**Submission to the NSW Parliament's Electoral Matters Committee**  
**Inquiry into the Conduct of the 2019 State Election**

Antony Green

Election Analyst

## Introduction

When the Electoral Matters Committee originally called for submissions into the conduct of the 2019 election, there were no matters on which I had particular cause to comment.

However, in its submission to the Inquiry, the Australian Labor Party has recommended that the NSW Electoral Commission be permitted to start pre-poll vote counting before 6pm on election day.

The Australian Electoral Commission has made a similar suggestion in its submission to the Commonwealth Parliament's Joint Standing Committee on Electoral Matters (JSCEM) inquiry into the conduct of the 2019 Federal election.

If either the New South Wales or Commonwealth Electoral Matters Committees recommend that pre-poll vote counting start before 6pm on election day, it will have a significant impact on the reporting of results on election night.

The purpose of this submission is to raise some of the issues that the Committee should take into account in considering whether to allow the counting of pre-poll votes before 6pm on election day.

## The Labor Party's Proposal

In its submission to the NSW Electoral Matters Committee, the Australian Labor Party made the following comment and recommendation.

### 4. ELECTION COUNT

#### 4.1 Early voting count

As noted, the number of early votes cast is growing. As a consequence, the time needed to count and scrutineer the count has increased.

Understanding this, in the 2018 Victorian election, initial scrutiny of early votes was permitted from 4pm on election day. Scrutineers were able to observe the count however all communication devices were quarantined. This allows for more timely results.

***Recommendation:*** *NSW Labor recommends that the early voting count commence from 4pm on election day, adopting similar provisions and conditions, as seen in Victoria, on scrutineers observing in the count.*

The submission is not correct in its reference to counting procedures at the Victorian election. What took place in Victoria was an initial sorting of ballot papers before counting started at 6pm. Sorting was required because of a difference between the conduct of Early in Person (Pre-poll) voting in Victoria compared to New South Wales.

## Victorian Pre-Poll Voting Procedures

In Victoria, all pre-poll votes are ordinary votes whether cast within a voter's home district or in another district. This means that it is possible for a ballot box at an early voting centre to have ballot papers from more than one district.

In 2014, ballot boxes containing votes from multiple districts prevented the Victorian Electoral Commission (VEC) from counting Pre-Polls on election night. The VEC was concerned it could not reconcile the number of ballot papers issued with the number of votes in ballot boxes.

For the 2018 election, the VEC altered the structure of its pre-poll voting centres, separating within district pre-poll ballot paper issue and voting from out of district pre-polling.

As a result, in 2018 the VEC chose to count within district pre-polls, but still had to deal with the possibility that other district pre-poll votes may have been in the ballot boxes being counted. The 4pm commencement that the Labor Party submissions refers to was the start of ballot paper sorting for within district pre-polls. Counting did not commence until after 6pm.

On another technical note, most Victorian electoral districts have only one early voting centre. Even in districts with more than one early voting centre, only a single total of within district pre-poll results is released.

## New South Wales Pre-Poll Voting Procedures

At New South Wales elections, only within district pre-poll votes are issued as ordinary votes. Outside of district pre-polls are issued as declaration votes and eventually included in the count as Absent votes in the week after polling day

In addition, at NSW elections, all early voting centres for a district are counted and reported separately. The district of Barwon had nine pre-poll centres plus Sydney Town Hall, and all reported their results separately.

The different procedures in NSW means there is no need for the sorting period allowed in Victoria.

However, it raises the question of whether the NSW Electoral Commission should begin counting of pre-poll votes before 6pm, on the obvious proviso that the count be done in secret and results not be released until after the close of polls at 6pm.

## The Growth in Pre-Poll Voting

Until the last decade, the only votes counted on election night were those taken in polling places on election day. The declining proportion of votes cast on polling day, and the increase in pre-poll voting, has forced Electoral Commissions to count pre-polls on election night. This has been assisted by within district pre-polls now being ordinary rather than declaration votes.

The scale of the problem is revealed by statistics on the rise of pre-poll voting.

- At the 2007 NSW election, 81.1% of votes were polling place ordinaries compared to only 61.5% in 2019.
- Pre-poll votes in NSW have risen from 5.5% in 2007 to 21.7% in 2019.
- In its submission to the Victorian Parliament's Electoral Matters Committee, the VEC reported that only 48.3% of votes were polling day ordinary votes. Pre-poll voting has risen from 8.8% in 2006 to 16.3% in 2010, 25.8% in 2014 and 36.8% in 2018.
- In its submission to JSCEM, the AEC reported that within district pre-poll votes have risen from 11.3% in 2010 to 32.5% in 2019, within another 4.1% as outside of district pre-poll declaration votes.

Polling day ordinary votes are counted on election night by the staff employed to run the polling place during the day. The number of staff allocated to polling places is based on how many ballot papers are

expected to be issued by the polling place. For that reason, counting staff in a polling place are proportional to the number of ballot papers to be counted.

The counting of pre-poll votes has to be undertaken by additional staff recruited to conduct the count. These are staff in addition to those employed by the Electoral Commission to staff polling places.

At the 2019 NSW election, there were 246 early voting centres, 52 shared with more than one district, plus the Sydney Town Hall early voting centre that took votes for all 93 districts.

Table 1 categorises polling places and pre-poll centres by size to demonstrate the problems faced in trying to count pre-poll centres on election night.

**Table 1 – Votes to Count - Polling Places versus Pre-Poll Centres – 2019 NSW Election**

Total votes taken	Pre-Poll Centres	Polling Places
More than 10,000 votes	11	..
More than 5,000 votes	80	..
More than 4,000 votes	102	3
More than 3,000 votes	133	47
More than 2,000 votes	166	395

**Source:** Calculated by author from NSWEC election statistics.

There were three polling places in the state that took more than 4,000 ordinary votes, but 102 pre-poll centres in the same category. On election night the NSW Electoral Commission counted all polling places and tried to count all pre-poll centres. Some pre-poll centres were not completed until the next day, and some reported only their first preference totals on the night, two-candidate preferred totals completed the next day.

Table 2 sets out the 11 largest pre-poll centres and indicates where the district they were in had other pre-poll centres. Table 3 shows the largest early vote centres, accumulating multi-district centres into a single total.

**Table 2 – Votes to Count – Largest Pre-Poll Centres – 2019 NSW Election**

Early Vote Centre	Total Votes	Other Pre-polls in District
Tamworth EM Office	13,683	1 other
Maitland EM Office	13,022	Only pre-poll
Port Macquarie EM Office	12,904	1 other
Dubbo EM Office	12,744	3 others
Bathurst EM Office	12,434	3 others
Orange EM Office	11,892	2 others
Wagga Wagga EM Office	11,615	1 other
Ballina EVC	11,492	2 others
Coffs Harbour EM Office	11,431	Only pre-poll
Cabramatta EVC	11,096	2 others
Shellharbour EM Office	10,076	2 others

**Source:** Calculated by author from NSWEC election statistics.

Table 3 – Votes to Count – Largest Multi-District Pre-Poll Centres – 2019 NSW Election

Early Vote Centre	Votes	Districts covered (Votes)
Sydney Town Hall	25,259	All 93 districts
Cabramatta	16,528	Cabramatta (11096), Fairfield (5432)
Penrith	16,328	Mulgoa (3319), Penrith (9592), Londonderry (3417)
Bankstown	12,201	Bankstown (6505), East Hills (2022), Lakemba (3674)
Wollongong	11,994	Keira (4186), Shellharbour (514), Wollongong (7294)
Mount Druitt	11,665	Londonderry (2517), Mount Druitt (9148)
Dapto	11,544	Shellharbour (9201), Wollongong (2343)
Campbelltown	11,068	Campbelltown (8858), Macquarie Fields (2210)
Fairfield	10,086	Cabramatta (1555), Fairfield (8531)

**Source:** Calculated by author from NSWEC election statistics.

With so many votes to count, and with the size of some pre-poll centres, is it time to consider starting the pre-poll count earlier?

## Arguments in Favour of the Early Counting of Pre-Poll Votes

- Counts can be completed on the night, both for first preference and two-candidate preferred.
- It would be easier to hire staff for a shift running through the day rather than until the early hours of the morning.
- By completing the counting of all ordinary votes, the result would be clearer on the night.
- New Zealand has counted Advance votes on election day before the close of polls for many elections without results leaking.
- The release of pre-poll results shortly after 6pm will provide a better picture of the overall result than the slow release of early polling place results.

## Arguments Against the Early Counting of Pre-Poll Votes

- It will not be possible to have enough secure premises to ensure the secrecy of counts.
- If scrutineers are free to leave the secure counting area at 6pm, will they report partial counts that can be confused with official returns.
- New Zealand may be able to count Advance votes, but they are helped by parties not being allowed to actively campaign on polling day. With Australian parties and candidates committing so many volunteers to handing out how-to-vote material, will they be able to commit scrutineers to a secure count before 6pm?
- Will the early release of pre-poll votes ruin the tension of election night coverages?

## Is the Availability of Scrutineers an Insoluble Issue?

The Macquarie Dictionary defines a scrutineer as -

1. someone who is authorised, especially by a candidate at an election, to inspect the counting of votes by electoral officers.
2. an official in a race, contest, etc., who checks that the rules are observed.

A scrutineer is entitled to challenge the validity of any ballot paper, but this is rarely a role carried out by scrutineers watching the first count after the opening of ballot boxes. On election night, most scrutineers observe the count to report results through internal party channels ahead of the official count being reported by the Electoral Commission.

Before the Electoral Commission began to conduct indicative preference counts, scrutineers used to conduct their own informal preference counts. Some still do their own preference counts, though usually in more complex contests where it is unclear the order candidates will finish.

Detailed scrutineering, where ballot papers are challenged, usually takes place after polling day, once parties and candidates have determined the close contests. In safe seats, scrutineering can be cursory in the post-election period. In close seats, parties and candidates send along their best scrutineers to challenge the rulings of electoral officials on the validity of votes.

There are situations where candidates and parties may wish to appoint experienced scrutineers to a pre-poll count conducted before 6pm on election day. This may be for the purposes of getting the best estimates of preference flows.

If the main purpose of scrutineers observing the pre-poll count is to simply to obtain and report the overall totals for a pre-poll count, then this should be not be too onerous a burden on the staffing arrangements of candidates and parties.

## Will Early Pre-Poll Counting Ruin Election Night Coverages?

The last two Federal elections have been close contests that produced election coverages that extended into the early hours of the next day. Much of the delay was due to the extended wait until the counting of large pre-poll centres could be completed.

The Australian Electoral Commission has been dealing with even larger pre-poll centres than the NSW Electoral Commission. At the 2019 Federal election, there were 149 pre-poll centres that took more than 10,000 votes, and ten that took more than 20,000 votes.

Will the release of pre-poll results shortly after 6pm ruin the tension of election night? Possibly in the case of an election with a clear result. At a close election, further counting would still be needed to determine results in each seat.

The trade-off for early dramatic tension would be clearer results earlier in the evening, and removing the late evening delay waiting for large pre-poll centres to report their results.

## Suggested Guidelines for Early Counting of Pre-Polls

As a starting point for discussion, I would suggest the following guidelines if it is decided to allow the early counting of pre-polls.

1. Early pre-poll counting only take place when premises can be secured. This may include secure bathroom and kitchen access.
2. Candidates and parties be informed of the place and start time of all early counts.
3. All scrutineers will be required to hand in mobile devices before admission to the count.
4. Only selected staff to have access to mobile devices for agreed administrative reasons. (eg to seek ruling on challenges)
5. Commission staff will determine which pre-poll centres to count first. This may be communicated to scrutineers before the count starts.
6. Precedence should be given to pre-poll centres where counting can be completed before the close of voting at 6pm. It will be best if whole pre-poll centres are be reported after 6pm and allows both official and unofficial (via scrutineer) results to be reported after 6pm.
7. No results be entered into the NSW Electoral Commission's result reporting system until after 6pm.
8. If no pre-poll centre for a district has been finalised before 6pm, the count should continue in secrecy until at least one pre-poll centre has been finalised for first preferences.

These suggested guidelines are designed to ensure that results remain secret until voting closes, and also insure that the media and other observers can rely on official returns through the NSW Electoral Commission rather than unofficial results from scrutineers.